

**EIGHTY-SECOND DAY.**

(Friday, May 21, 1937)

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by President Woodul.

The roll was called and the following Senators were present:

Aikin	Oneal
Beck.	Pace
Brownlee	Rawlings.
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Davis	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

A quorum was announced present.

The invocation was offered by the Chaplain.

Reading of the Journal of the proceedings of yesterday was dispensed with, on motion of Senator Aikin.

**Reports of Standing Committees.**

Reports on House Bill No. 1167,

on Senate Bill No. 26 and on H. C. R. No. 97 were submitted by the chairmen of the several committees to which they were referred. (See appendix for reports in full.)

**Report of Free Conference Committee on S. B. No. 179.**

Senator Head submitted the following report of the Free Conference Committee on S. B. No. 179:

Committee Room,

Austin, Texas, May 17, 1937.

Hon. Walter F. Woodul, President of the Senate;

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sirs: We, your Committee, appointed to adjust the differences between the House and Senate on S. B. No. 179, recommend that the bill be passed in form and text as submitted herewith.

HEAD,  
WINFIELD,  
REDDITT,  
NEWTON,  
SULAK,

On the part of the Senate.

WAGGONER,  
HERZIK,  
WOOD,  
ROSS,  
KERN,

On the part of the House.

S. B. No. 179.

**A BILL****To Be Entitled**

An Act making appropriations to pay miscellaneous claims out of the General Fund; authorizing the payment of certain sums out of the State Board of Hairdressers and Cosmetology Funds; making appropriations to the Governor to pay expenses of returning fugitives on Governor's requisitions; authorizing the payment of certain sums out of the Highway Fund; provided further that before payment of any claim shall be paid from the funds hereby appropriated the same shall have the approval of the State Comptroller, the State Auditor and Efficiency Expert, and the Attorney General and provided further that any claim involving the refund of a franchise tax shall also carry the approval of the Secretary of State in addition to the other officials herein named, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the following sums of money, or so much thereof as may be necessary, be and the same are hereby appropriated to be paid out of the General Revenue Fund to pay miscellaneous claims against the State of Texas as herein enumerated:

To pay B. T. Killens, Rusk, Texas, c/o Citizens State Bank,  
Warrant No. 205624, dated August 2, 1933, on which payment is prohibited by the Statute of Limitation\_\_\_\_\_ \$

40.00

To pay B. T. Killens, Rusk, Texas, Warrant No. 205674,

dated August 2, 1933, c/o Citizens State Bank, on which payment is prohibited by the Statute of Limitation .....	35.00
To pay Horace Wells, Amarillo, Texas, Warrant No. 137550, dated April 6, 1933, on which payment is prohibited by the Statute of Limitation.....	4.40
To pay St. Louis Universal Press, Warrant No. 123835, dated April 26, 1932, on which payment is prohibited by the Statute of Limitation (St. Louis University, St. Louis, Missouri) .....	1.35
To pay Runge Karnes Co. News, Warrant No. 84652, dated January 20, 1933, on which payment is prohibited by the Statute of Limitation .....	2.00
To pay First National Bank, Floresville, Texas, Warrant No. 157737, dated June 19, 1934, on which payment is prohibited by the Statute of Limitation .....	30.00
To pay N. Moore, Warrant No. 188742, dated July 1, 1933, on which payment is prohibited by the Statute of Limitation .....	186.62
To pay Will H. Doran, Warrant No. 193031, dated July 12, 1933, on which payment is prohibited by the Statute of Limitation .....	1.00
To pay First National Bank, Malakoff, Texas, Warrant No. 215691, dated August 23, 1933 on which payment is prohibited by the Statute of Limitation.....	400.44
To pay Gladys Shields, Warrant No. 145701, dated May 31, 1934, on which payment is prohibited by the Statute of Limitation .....	56.25
To pay Gladys Shields, Warrant No. 126829, dated April 30, 1934, on which payment is prohibited by the Statute of Limitation .....	56.25
To pay Tempo Books Inc., 580 5th Avenue, New York City, Warrant No. 179055, dated July 15, 1933, on which payment is prohibited by the Statute of Limitation.....	13.50
To pay Dempster Mill Manufacturing Co., Beatrice, Nebraska, Warrant No. 176277, dated June 7, 1933, on which payment is prohibited by the Statute of Limitation .....	0.93
To pay American Water Works Association, 29 West 39th St., New York City, Warrant No. 192845, dated July 12, 1933 on which payment is prohibited by the Statute of Limitation .....	2.50
To pay City National Bank, Wichita Falls, Texas, Warrant No. 149460 dated May 31, 1934 on which payment is prohibited by the Statute of Limitation .....	6.97
To pay National Research Council, 2101 Constitution Avenue, Washington, D. C., Warrant No. 66493, dated December 21, 1934, on which payment is prohibited by the Statute of Limitation .....	2.80
To pay Plymouth Press, 1701 West 74th St., Chicago, Illinois, Warrant No. 62366, dated September 8, 1933, on which payment is prohibited by the Statute of Limitation .....	0.66
To pay Modern Language Association of America, 100 Washington Square, New York City, Warrant No. 79077, dated January 12, 1933 on which payment is prohibited by the Statute of Limitation .....	2.34
To pay North Texas Coach Co., 608 Travis Avenue, Wichita Falls, Texas, Warrant No. 209705, dated August 11, 1933, on which payment is prohibited by the Statute of Limitation .....	1.00
To pay North Texas Coach Co., 608 Travis Avenue, Wichita Falls, Texas, Warrant No. 210439, dated August 14, 1933, on which payment is prohibited by the Statute of Limitation .....	294.25
To pay North Texas Coach Co., 608 Travis Avenue, Wichita Falls, Texas, Warrant No. 210440, dated August 14, 1933,	

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on which payment is prohibited by the Statute of Limitation	4.50
To pay J. C. Fuller, Acting as District Attorney, 83rd Judicial District for twenty (20) days service rendered in the District Court of Presidio Co., Texas, at the January term of 1936, at \$10.96 per day	219.20
To pay M. O. Flowers, for service as special district judge of 22nd Judicial District, August 12 to August 15, 1935	43.80
To pay Louis Roberson, Sheriff of Reeves Co., Texas, for fees in felony cases in the District Court of Reeves County, Texas, January term A. D. 1934	139.80
To pay Mrs. Virgie Scurlock, St. Augustine, Texas, witness fee in the case of State of Texas vs. Eron Harris in the District Court of Shelby County, Texas, 123rd Judicial District	7.40
To pay the Steck Co., Austin, Texas, Account of the State Board of Dental Examiners	87.60
To pay Texas Prison System for motor license plates furnished by the Prison System to the Railroad Commission	256.50
To pay John C. Browder, Warrant No. 15630, dated August 2, 1933, on which payment is prohibited by the Statute of Limitation	132.00
To pay the W. S. Tyler Co., Warrant No. 61364, dated December 18, 1931, on which payment is prohibited by the Statute of Limitation	5.67
To pay Oliver Burleson, Warrant No. 115741, dated March 23, '34, on which payment is prohibited by the Statute of Limitation	3.60
To pay J. E. Hickman, Warrant No. 60997, dated December 20, 1932, which was lost or destroyed, and on which payment is prohibited by the Statute of Limitation	583.33
To pay Quitman Independent School District of Wood County, Texas, Warrant No. 157722, dated June —, 1934, on which payment is prohibited by the Statute of Limitation	921.00
To pay Big Sandy Independent School District of Upshur County, Texas, Warrant No. 216023, dated August 23, 1933, on which payment is prohibited by the Statute of Limitation	22.00
To pay Gilmer Lumber Company, Upshur County, Gilmer, Texas, Warrant No. 213733 dated August 21, 1933 on which payment is prohibited by the Statute of Limitation	19.03
To pay Forney Henry, Slaton, Texas, Warrant No. 170744, dated July 11, 1934, on which payment is prohibited by the Statute of Limitation	34.00
To pay First National Bank, Huntsville, Warrant No. 168009, dated May 31, 1933, on which payment is prohibited by the Statute of Limitation	66.71
To pay Webster Publishing Co., St. Louis, Missouri, Warrant No. 137842, dated May 7, 1934, on which payment is prohibited by the Statute of Limitation	6.41
To pay Webster Publishing Co., St. Louis, Missouri, Warrant No. 175750, dated June 6, 1933, on which payment is prohibited by the Statute of Limitation	11.20
To pay Morgan Dolive, Oakhurst, Texas, Warrant No. 199288, dated June 24, 1933, on which payment is prohibited by the Statute of Limitation	5.92
To pay R. R. C. Hargrove, Marshall, Texas, Deficiency Certificate No. 1037, dated September 10, 1929, appropriation exhausted	45.00
To pay Albert Pierce, Marshall, Texas, Deficiency Certificate No. 1993, dated August 7, 1930, appropriation exhausted	72.00
To pay U. S. Postmaster, Capitol Station, Austin, Texas, Deficiency Warrant No. 16743, dated June 24, 1936, appropriation exhausted	500.00

To pay First National Bank, Honey Grove, Texas, Warrant No. 76568, dated December 2, 1932, on which payment is prohibited by the Statute of Limitation.....	3.48
To pay Fillmore Music House, 528 Elm Street, Cincinnati, Ohio, Warrant No. 80682, dated January 24, 1934, on which payment is prohibited by the Statute of Limitation.....	20.83
To pay J. D. Barker, Canyon, Texas, Warrant No. 150562, dated June 1, 1934, on which payment is prohibited by the Statute of Limitation.....	15.00
To pay South Western Associated Telephone Company, Lubbock, Texas, Warrant No. 176294, dated July 18, 1934, for the sum of \$7.85; Warrant No. 162891, dated June 27, 1934, for the sum of \$3.00; Warrant No. 194592, dated September 22, 1934 for the sum of \$2.50; Warrant No. 189044, dated Sept. 10, 1934, for the sum of \$7.00; Warrant No. 146228, dated May 22, 1934, for the sum of \$4.20; Warrant No. 153642, dated June 11, 1934, for the sum of \$7.45; Warrant No. 194591, dated Sept. 22, 1934, for the sum of \$2.35; Warrant No. 184812, dated Sept. 1, 1934, for the sum of \$4.75; on which payments are prohibited by the Statute of Limitation.....	39.10
To pay The San Benito Bank & Trust Co., San Benito, Texas, Warrant No. 203709, dated July 31, 1933 on which payment is prohibited by the Statute of Limitation.....	7.70
To pay Oliver Ditson Company, 359 Boylston Street, Boston, Mass., Warrant No. 112272, dated Feb. 28, 1933, in the sum of \$2.42; Warrant No. 157613, dated March 10, 1933, in the sum of \$1.14; Warrant No. 118193, dated March 11, 1933, in the sum of \$5.83; on which payments are prohibited by the Statute of Limitation.....	9.39
To pay James H. Neel, Dallas, Texas, c/o Dallas National Bank Bldg., Warrant No. 4300, dated Sept. 13, 1933, on which payment is prohibited by the Statute of Limitation.....	8.34
To pay American Produce & Vegetable Co., Inc., 2025 Cadiz Street, Dallas, Texas, Warrant No. 191354, dated July 7, 1933, for the sum of \$9.20; Warrant No. 191353, dated July 7, 1933 for the sum of \$9.20 on which payments are prohibited by the Statute of Limitation.....	18.40
To pay First State Bank, Overton, Texas, Warrant No. 153520, dated January 9, 1934, for the sum of \$1.00; Warrant No. 146288, dated May 22, 1934, for the sum of \$2.80; Warrant No. 21476, dated October 13, 1932, for the sum of \$5.36; Warrant No. 90920, dated February 14, 1934, for the sum of \$12.37; Warrant No. 87886, dated February 5, 1934, for the sum of \$1.28; on which payments are prohibited by the Statute of Limitation.....	22.81
To pay The Peoples National Bank, Belton, Texas, Warrant No. 201943, dated July 31, 1933, for the sum of \$60.00; Warrant No. 202028, dated July 31, 1933, for the sum of \$20.00; on which payments are prohibited by the Statute of Limitation.....	80.00
To pay Phoenix Dairy, Houston, Texas, Warrant No. 65727, dated July 12, 1934, on which payment is prohibited by the Statute of Limitation.....	112.26
To pay McGrattan Brothers, Weatherford, Texas, Warrant No. 57944, dated December 6, 1932, on which payment is prohibited by Statute of Limitation.....	46.46
To pay The Follett National Bank, Follett, Texas, Warrant No. 216072, dated August 23, 1933, on which payment is prohibited by the Statute of Limitation.....	9.08
To pay Northwestern University, 619 Clark Street, Evanston, Illinois, Warrant No. 147938, dated May 25, 1934, on which payment is prohibited by Statute of Limitation.....	10.00

To pay The University of Minnesota Press, Minneapolis, Minnesota, Warrant No. 179357, dated June 16, 1933, for the sum of \$3.00; Warrant No. 168678, dated May 25, 1933, for the sum of \$2.50; Warrant No. 166506, dated May 22, 1933, for the sum of \$2.31; Warrant No. 144158, dated April 16, 1933, for the sum of \$1.00 on which payments are prohibited by the Statute of Limitation	8.81
To pay Hobart Cabinet Company, Troy, Ohio, Warrant No. 204815, dated August 1, 1933, on which payment is prohibited by Statute of Limitation	42.75
To pay Weisstein & Weisstein, 2162 Seventh Ave., New York, N. Y., Warrant No. 110242, dated Mar. 31, 1934, on which payment is prohibited by Statute of Limitation	56.25
To pay College of Mines & Metallurgy, El Paso, Texas, Warrant No. 64745, dated April 17, 1930, on which payment is prohibited by Statute of Limitation	15.93
To pay The Denver Art Museum, Denver, Colorado, Warrant No. 132853, dated May 16, 1932, for the sum of \$5.00; Warrant No. 150431, dated June 18, 1932, for the sum of \$3.00; on which payments are prohibited by the Statute of Limitation	8.00
To pay Robert Carroll, Klondike, Texas, Warrant No. 34688, dated November 10, 1931, on which payment is prohibited by the Statute of Limitation	1.00
To pay John Wiley & Sons, Inc., 440 Fourth Avenue, New York, N. Y., Warrant No. 214550, dated August 22, 1933, on which payment is prohibited by Statute of Limitation	
To pay Mrs. Wm. McGough, No. 2920 Summers, Corpus Christi, Texas, Warrant 4719b, dated March 17, 1965, on which payment is prohibited by Statute of Limitation	100.00
To pay Chris Sermas, Waco, Texas, Deficiency Warrant No. 1384, dated August 29, 1931, on which payment is prohibited by Statute of Limitation	400.00
To pay Narragansett Machine Company, Providence, R. I., Warrant No. 66905, dated December 28, 1933, on which payment is prohibited by Statute of Limitation	14.00
To pay Mayfield Company, Tyler, Texas, Warrant No. 182775, dated June 19, 1933, on which payment is prohibited by Statute of Limitation	613.80
To pay Mayfield Company, Tyler, Texas, Warrant No. 29083, dated October 24, 1933, on which payment is prohibited by Statute of Limitation	3.00
To pay Mayfield Company, Tyler, Texas, Warrant No. 195818, dated July 20, 1933, on which payment is prohibited by the Statute of Limitation	8.75
To pay Mayfield Company, Tyler Texas, Comptroller's Deficiency Certificate No. 722, dated August 5, 1931, on which payment is prohibited by the Statute of Limitation	5.56
To pay First National Bank, Cleveland, Texas, Warrant No. 188094, dated August 7, 1934, on which payment is prohibited by Statute of Limitation	84.37
To pay Capital National Bank, Austin, Texas, Comptroller's Deficiency Certificate No. 21816, dated December 11, 1930, issued in full payment of all claims by the J. T. Carlisle Estate	7,912.10
To pay Ector County delinquent taxes on University of Texas school lands for the years of 1931, 1933, 1932, and 1934	7,896.10
To pay to Crane County delinquent taxes on University of Texas school lands for the years of 1931, 1932, 1933, and 1934	11,507.04
To pay to Pecos County delinquent taxes on University of Texas school lands for the years of 1931, 1932, 1933 and 1934	8,817.16

To pay to Reagan County delinquent taxes on University of Texas school lands for the years 1931, 1932, 1933 and 1934	40,290.62
To pay to Riley Burch, _____, Texas, for oil purchased from the State of Texas	3,057.78
To pay the Palmer Match Company, Akron, Ohio, for overpayment of franchise taxes	47.00
To pay the Linde Air Products Company, Dallas, Texas, refund filing fee	50.00
To pay the Rio Grande Oil Company, Fort Worth, Texas, refund filing fee	790.00
To pay Fred Geary, Luling, Texas, refund of penalty paid to Cigarette Tax Division, Treasury Department	18.00
To pay Highland Clinic, Shreveport, La., account of Industrial Accident Board	49.00
To pay George P. Blackburn, expenses incurred by reason of exchange of benches with the judge of the 8th Judicial District	23.60
To pay Edwin G. Moorhead, Austin, Texas, Asst. District Attorney of the 53rd judicial district, balance due on salary	1,539.96
To pay Wm. Kay Miller, Austin, Texas, District Attorney, 53rd judicial district, balance due on salary	1,659.94
To pay Hardy Hollers, Austin, Texas, Asst. District Attorney, 53rd judicial district, balance due on salary	800.00
To pay to the heirs of Patrick Flynn escheated to the State of Texas	577.55
To pay the heirs Susan J. Skain escheated to the State of Texas	1,120.92
To pay Adams Estate, Jasper, Texas, duplicate payment of state taxes on certain lands in Jasper County, Texas	504.72
To pay Mrs. J. Waddington, Liberty, Texas, duplicate payment of state taxes on certain lands in Liberty County, Texas	49.92
To pay J. M. Walker, judgment rendered in Cause No. 1909, J. M. Walker vs. the State of Texas, Court of Civil Appeals, Tenth Supreme Judicial District, Waco, Texas	2,915.30
To pay Export Insurance Company, Houston, Texas, for refund of overpayment of gross receipts taxes and for refund of fire insurance commission maintenance tax for the year of 1931	3,329.24
To pay Mrs. J. P. Bemrod, Wichita Falls, Texas, for refund of package store permit bought by her deceased husband	131.75
To pay Dr. W. D. Black, Barstow, Texas, gasoline tax refund Claim No. 100,334 gasoline tax refund	28.00
To pay Dr. E. W. Anderson, Huntsville, Texas, balance due on salary while acting as medical supervisor for the Texas Prison System	866.52
To pay City of Refugio for refund of gross production and occupation tax on oil royalty owned by the Town of Refugio	1,260.82
To pay Dr. Chas. P. Schenck, 1011-12 Medical Arts Bldg., Fort Worth, Texas, for medical services rendered Monte Reid, member Texas National Guards at Breckenridge, Texas; payment in full of all claims against the State	75.00
To pay Frank Bezoni, District Attorney, 7th judicial district of Texas expenses incurred in the discharge of official duties as District Attorney in attending the May term 1936 of the District Court of Wood County	84.00
To pay A. O. Newman, District Attorney, Coleman, Texas, balance due on salary	76.51
To pay Gulf States Utilities Employees' Federal Credit Union, P. O. Box 2951, Beaumont Texas, refund franchise tax	12.60

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To pay Primrose Refining Co., refund overpayment of franchise taxes (Wichita Falls, Texas)	60.00
To pay Potts-Ross Co., Beaumont, Texas, refund overpayment of franchise taxes	11.00
To pay A. F. Weber, Sr., La Grange, Texas, refund State ad valorem taxes paid under protest	20.66
To pay M. R. Hemley, El Paso, Texas, Warrant No. 179459, dated July 23, 1934, on which payment is prohibited by the Statute of Limitation	6.45
To pay Friona State Bank, Friona, Texas, witness fees in the case of State of Texas vs. J. C. Britton which fees were payable to R. V. Chenault	41.52
To pay Friona State Bank, Friona, Texas, witness fees in the case of State of Texas vs. J. C. Britton which fees were payable to C. J. Carter	41.52
To pay Friona State Bank, Friona, Texas, witness fees in the case of State of Texas vs. J. C. Britton which fees were payable to C. E. Smith	41.52
To pay First National Bank, Paris, Texas, Confederate Pension Warrants Nos. 82853, 2515, 16032, 22715, 29282, 35802 in the amount of \$25.00 each	175.00
To pay Armour Employees' Credit Union, Stock Yard Station, Fort Worth, Texas, refund of franchise tax	48.60
To pay Empire Pipe Line Company, 814 Littlefield Bldg., Austin, Texas, refund filing fee	400.00
To pay District Clerk of Travis County court costs in the State of Texas vs. Guaranty Trust Mutual Life Insurance Company, Cause No. 51388	2,627.51
To pay Midway Liquor Company, Dallas, Texas, refund overpayment of package store permits Nos. 788 and 21878 in the amounts of \$133.34 and \$200.00 respectively	333.34
To pay Charles Hanavan Inc., San Antonio, Texas, funeral expenses due for the burial of Cecil Taylor, National Guardsman, who was killed while on duty in East Texas October, 1932, payment in full	50.00
To pay The Gas Utilities Fund of the Railroad Commission \$279.23. This fund is to be used to pay the following companies the amounts stipulated:	
Kee Lox Manufacturing Company	\$144.50
Railway Express Company	1.55
Southwestern Bell Telephone Company	.75
Texas Public Service Company	6.00
Typewriter Exchange	125.00
Western Union Telegraph Company	1.43
	279.23
To pay Baumgartner Matulla Company refund of franchise tax paid after charter expired	607.20
To pay Graham Fagg, Greenville, Texas, refund of franchise tax paid after charter expired from 1932 to 1936, inclusive	840.79
To pay A. G. McGalin, refund occupation tax	25.00
To pay Arthur M. Green, Victoria, Texas, acting as District Attorney, for salary	255.00
To pay L. J. Brucks, Special Judge for the 38th Judicial District, at Uvalde, Texas, for salary	655.70
To pay J. R. Davis, San Antonio, as Special Chief Justice of the Court of Civil Appeals, Fourth Supreme Judicial District of Texas, salary	218.88
To pay Charles Berry, District Judge in and for the 8th Judicial District of Texas, for expenses while holding Court for Judge George P. Blackburn of the 6th Judicial District at Bonham (Greenville, Texas)	27.00

To pay Charles Berry, Greenville, Texas, District Judge 8th Judicial District, for expenses incurred in work outside of the 8th Judicial District	45.50
To pay Henry H. Brooks, Special Judge for Travis County, Texas, during the summer of 1935, balance due on salary	166.73
To pay Court Costs in Cause No. 24329-B entitled State of Texas vs. Sportsmen's Park, in the District Court of Dallas County for the 95th Judicial District (Geo. W. Howard, District Clerk, Dallas, Texas)	216.20
To pay Paul G. Peurifoy, Special Judge of the Criminal District Court No. 2, Dallas, Texas, in August of 1935 balance due on salary (Republic National Bank Bldg., Dallas, Texas)	43.09
To pay Roy H. Giese, District Clerk, LaGrange, Texas, for two claims for Court costs in case No. 8397, State of Texas vs. Knoche	130.71
To pay Joe White, Sheriff of Coryell County, to fees in felony cases No. S. 5138 & 5139, The State of Texas vs. Ethel Johnson, indicted January 26, 1935, for serving two original attachments	105.10
To pay Wm. Shely, Sheriff of Nueces County, Texas, for expense account in connection with returning Dr. Richards to Texas, from Oklahoma	115.64
To pay T. B. Harris, Carson County Sheriff, Panhandle, Texas, to expenses incurred in returning Raymond Hardy and Marshall Ratliff from Los Angeles, California, to State of Texas, in accordance with commission issued by Gov. Allred under date of May 11, 1935	185.00
To pay L. Morgan Williams, Jourdanton, expense account as District Attorney 81st Judicial Dist., for the quarter ending 31st day of August, 1936	71.50
To pay Geo. H. Templin, Clerk of the District Courts of Travis County, Texas, Court Costs in Cause No. 44234, the State of Texas vs. Phillips Petroleum Co., et al (Costs incurred Sept. 1, 1927-Aug. 31, 1928), balance due	2,073.70
To pay Court of Civil Appeals, Second Supreme Judicial District, Fort Worth, Texas, Claim of Johnson Towell Supply, \$1.50; of the Steck Co., \$2.60; Claim of Stafford-Lowden Co., \$10.50; Claim of Tarrant County, \$16.50; Claim of Sam B. Crow, \$18.00	49.10
To pay West Texas Hotel Company, of El Paso, Texas, refund on package store permit, No. 482	125.00
To pay Ocean Accident & Guaranty Corporation, 703 National Bank of Commerce, San Antonio, Texas, refund of Premium Tax	116.26
To pay Mrs. Ada Henderson, Snyder, Texas, refund on taxes paid twice	7.77
To pay The Estate of Mrs. M. E. Davis, Snyder, Texas, refund of overpayment of State Taxes	39.10
To pay Continental Casualty Company, Chicago, Ill., for refund of Premiums	300.90
To pay R. M. Shaw, Carthage, Texas, refund on State Tax	6.71
To pay A. C. Soap, Carthage, Texas, refund on State Tax for years 1917 to 1934, inclusive	30.13
To pay R. R. Hughes, Lakeview, Texas, for refund of taxes on non-existing land	250.54
To pay Capital Life Insurance Company, Denver, Colorado, for overpayment of occupation tax	808.15
To pay Northwest Casualty Company, Seattle, Washington, Premium Tax overpayment	74.03
To pay Mrs. Woddie Richards, Box 4, Pipe Creek, Texas, for refund of occupation tax	10.00
To pay Ed Brown, 4605 Lindsey St., Dallas, Texas, for refund of Cigarette Dealer's License Tax	30.00



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To pay Guy F. Stovall, El Campo, Texas, for refund of Taxes paid on State land through error.....	86.03
To pay Hyman Pearlstone, Dallas, Texas, refund on ad valorem taxes .....	41.14
To pay Jones-Blair Paint Varnish Company, Dallas, Texas, for refund of overpayment of filing fee.....	10.00
To pay Ideal Food Store, Perryton, Texas, for refund on Cigarette License Tax.....	20.00
To pay Oran Shupback, Alpine, Texas, for refund on taxes on non-existing land .....	368.17
To pay Joe Bohacek and J. S. Kubelka, Beasley, Texas, for overpayment of taxes.....	186.66
To pay Stewart Title Guaranty Company, San Antonio, Texas, for return of State Taxes paid twice in the years 1933 and 1934 .....	15.34
To pay John Wiebener, Wichita Falls, Texas, for refund of overpayment of taxes in the year 1928.....	120.76
To pay William Harwell, Brookshire, Texas, for lost Warrant .....	25.33
To pay J. J. Kaster, El Paso, Texas, for return of franchise tax paid twice .....	17.25
To pay Globe News Publishing Co., Amarillo, Texas, for printing Constitutional Amendments in 1934.....	260.14
To pay Edwards Bros., Lumber Company, Rusk, Texas, for lumber furnished State Park No. 22, Bastrop, Texas.....	104.34
To pay Fred L. Merkins, Greenville, Texas, in Cause No. 7642, Fred L. Merkins vs. Charley Lockhart, State Treasurer of the State of Texas.....	80.06
To pay D. A. Landers, 208 Archway, Austin, Texas, for refund on occupation tax.....	10.00
To pay The European General Reinsurance Company, limited, London, England, 99 John Street, New York, N. Y., refund of Premium Tax payment.....	55.74
To pay deficiency certificates issued to District Attorneys in districts composed of two or more counties to cover deficiency in appropriation for per diem for the year ending August 31, 1934 .....	\$ 31,874.50
To pay deficiency certificates issued to District Attorneys in districts composed of two or more counties to cover deficiency in appropriation for per diem for the year ending August 31, 1935 .....	31,245.50
To pay deficiency certificates issued to District Attorneys in districts composed of two or more counties to cover deficiency in appropriation for per diem for the year ending August 31, 1936 .....	8,974.00
To pay deficiency certificates issued to sheriffs, clerks, attorneys, county judges, justices of peace, and constables, covering fees earned as per Article 1035, C. C. P., 1925, for the State's fiscal year ending August 31, 1936.....	18,986.40
Amount estimated needed to pay fees to sheriffs, clerks, attorneys, county judges, justices of peace, and constables earned but not yet presented .....	5,000.00
	96,080.40
To pay J. F. Moring, Fort Worth, Texas, for expenses of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935.....	103.37
To pay A. B. Carter, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935.....	177.62

To pay Ralph Ridgway, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	133.30
To pay Bob Troutt, Fort Worth, Texas, for expenses of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	153.94
To pay W. O. Royston, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	50.08
To pay J. W. McKnight, Fort Worth, Texas, for expenses of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	124.22
To pay O. L. Davis, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	105.14
To pay John S. Renfro, Fort Worth, Texas, for expenses of gasoline and oil used in his official capacity as a deputy sheriff for the year 1935	159.96
To pay to M. H. Frank, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	95.68
To pay E. C. Watson, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	95.62
To pay Floyd Hampton, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	111.96
To pay T. J. Snow, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	73.36
To pay Frank Winters, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	109.78
To pay W. C. Harman, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	135.02
To pay G. A. Coke, Fort Worth, Texas, for expense of gasoline and oil used in his official capacity as a Deputy Sheriff for the year 1935	31.79
To pay Mrs. A. T. Sharp, Beckville, Texas, refund over-payment ad valorem taxes	10.87
To pay Lizzie Schueneman, Seguin, Texas, refund ad valorem taxes paid in error	51.43
To pay T. Lockhead, Eastland, Texas, refund duplicate payment ad valorem taxes	27.60
To pay McLennan County Physicians and Dentists Exchange, Waco, Texas, refund of payment of franchise tax	12.50
To pay Wright Refining Co., refund overpayment gasoline tax	92.88
To pay Louis Huebener, refund overpayment tax on gasoline	16.00
To supplement appropriations for the payment of transcript fees to official court reporters for narrative statement of facts and or in cases where court is required and does appoint attorney to represent Defendant in criminal action, and where official court reporter is required and does furnish Defendant's attorney with script of his notes as provided by law: For the State's fiscal years ending August 31, 1936, and August 31, 1937: Provided, however, that this appropriation is for the purpose of paying court reporters who were not regularly employed and appointed court reporters at the time the cases were tried and the service was rendered	1,100.00
To pay First National Bank of Bonham, Texas, for Comptroller's Deficiency Certificates issued to Bud Hughes, Sheriff of Fannin County	3,208.33

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To pay R. L. Van Zandt (C. L. Ezell), receiver of the Texas National Bank of Fort Worth, Texas, judgment rendered February 9, 1937, in favor of C. L. Ezell, receiver of The Texas National Bank of Fort Worth, Texas, in the U. S. District Court for the Western District of Texas, Austin Division in Cause No. 582 in equity, styled R. L. Van Zandt, (C. L. Ezell) receiver of The Texas National Bank of Fort Worth, Texas, vs. State of Texas, certified copy attached which is now final—\$35,893.66; To court costs in said suit adjudged against the State of Texas certified bill attached—\$14.50	35,908.16
To pay Edna E. Roberts, El Paso, Texas, refund duplicate payment of ad valorem taxes	46.44
To pay Rusk Independent School district taxes on State owned land within said district as authorized by law	1,736.00
To pay A. M. Davis, Attorney, 1 East 44th Street, New York City, New York, for reimbursement of expenses incurred and as Attorney's Fee in representing State Banking Commissioner in case of S. J. Senter and Company, Inc., vs. Seaboard Bank and Trust Company (succeeded by Gulf Bank and Trust Company of Port Arthur, Texas,) from February, 1928, to July, 1932, said Banking Institution being in the hands of State Banking Commissioner for liquidation from July 17th, 1930 to July, 1932, and for services rendered in re Societa Nazionale di Navigazione vs. Gulf Bank and Trust Company, at request of State Banking Commissioner	750.00
To pay the American National Bank, of Austin, Texas, to reimburse said bank for money advanced for the construction of the Auditorium Building at Agricultural and Mechanical College, said building having been authorized by the Acts of the Thirty-fourth Legislature, First Called Session, 1915, page 104, and said sum being the unexpended balance of said appropriation	8,861.62

Sec. 2. To pay the following for refund of examination fee which was paid to the Texas State Board of Hairdressers and Cosmetologists for State purposes, and the privileges thereunder were never exercised directly or indirectly, and the same shall be paid from the State Board of Hairdressers and Cosmetology Funds:

Frank Munoz, El Paso, Texas	10.00
Loucille Stott, Jasper, Texas	10.00
Sara E. Walton, 7403 Capitol Avenue, Houston	10.00
Myrtle Van Nort, Ballinger	10.00
Mrs. Hazel Bulacher, 3326 Avenue K., Galveston	10.00
Lyda Belle Griffin, Calvert, Texas	10.00
Irene H. Adam, Dallas, Texas	10.00
Elier Britt, Beaumont, Texas	10.00
Edythe M. Davis, McKinney, Texas	10.00
Winnefred Davis, San Benito	10.00
Mrs. Boyd Feazell, Lubbock	10.00
Martha Hanke, Port Arthur	10.00
Annie Mae Johnson, San Angelo	110.00
Audrey Martin, Woodsboro	10.00
Katherine Patterson, Houston	10.00
James Heath Powers, Center, Texas	10.00
Buna Hawkins, Dallas, Texas	10.00

To pay the following for refund of overpayment of license fees paid to the State Board of Hairdressers and Cosmetologists and the same shall be paid from the State Board of Hairdressers and Cosmetology Funds:

Mrs. Nell Moreaux, Houston, Texas.....	7.00
Bertha Peres, 1900 South 10th, Waco.....	7.00
Phylliss I. Claus, Harlingen, Texas.....	3.00
Juanita Johnson, Houston.....	5.00
Sylvia Kinchloe, Burnett, Texas.....	7.00

Sec. 3. To pay to the Governor out of the General Revenue Fund to pay expenses of returning fugitives where requisition actually heretofore issued by the Governor; such expenses be paid solely on the Governor's written approval, including the State Auditor's approval as to accuracy only of amounts; specific bills of such expenses to be paid are as follows:

Norris O'Banion, in behalf of J. W. O'Banion of Center, Texas, deceased ex-sheriff for a return of a Defendant, Dewey Parker, from Muskogee, Oklahoma, in the sum of \$180.00; for the return of the Defendant George McCain from Sacramento, Calif., in the sum of \$450.00.....	630.00
Blewett-Stinnett Grain Co., Fort Worth, Texas, for return of a Defendant, Inez Jordan, from Albany, N. Y., to Fort Worth, Texas.....	492.19
D. M. Hassler, ex-Sheriff of Erath County, for return of a Defendant, Walter Moker, from Philadelphia, Pa.....	296.00
For the return of the Defendant, J. C. Parsons, from Joliet, Ill., 107.25.....	107.25
To pay Ed Weatherford, City Detective, Fort Worth, Texas reward for the arrest of the parties involved in the Thomas Holmes murder case.....	500.00

Sec. 4. That the following sums of money or so much thereof as may be necessary, be paid out of the Texas Highway Funds:

To pay Gibb Gilchrist, State Highway Engineer, Austin, Texas, expenses incurred on official business for the State Highway Department for inspection trips.....	19.75
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Grand Total .....\$ 266,136.15

Sec. 5. It is specifically provided herein that before any claim shall be paid from funds hereby appropriated the same shall have the approval of the State Comptroller, the State Auditor and Efficiency Expert, and the Attorney General. It is further provided that any claim involving the refund of a franchise tax shall also carry the approval of the Secretary of State in addition to the other officials herein named.

Sec. 6. That the Comptroller of Public Accounts is hereby authorized and directed to issue a warrant or warrants on the State Treasury in favor of each of the persons, firms, or corporations named herein, in the amounts set opposite their respective names, and shall mail or deliver to each of said persons, firms, or corporations at their said respective addresses warrant or warrants in payment of said claim or claims, and said persons, firms, or corporations shall duly receipt the Comptroller for said warrant or warrants for payment of said claim or claims.

Sec. 7. The fact that the claims herein appropriated for are past due and the persons, firms and corporations to whom the same are payable are being deprived of the proceeds thereof creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

**Senate Resolution No. 96.**

Senator Woodruff offered the following resolution:

Whereas, There is a general demand upon the part of the citizens of Texas that positive and immediate action be had upon the part of the Legislature and the law enforcement officers of the State to stamp out all forms of gambling; and

Whereas, Gambling on horse races, dog races, at the tracks and through bookmakers, is perniciously encouraging gambling in all forms, and has resulted in a tremendous increase in this vice in the State; and

Whereas, H. B. No. 53 was introduced in the House of Representatives by Representative Bradbury at the Forty-fifth Legislature, Regular Session, passed by the House by an overwhelming majority and sent to the Senate on the 15th day of February, 1937, and by the President of the Senate referred to the Committee on Criminal Jurisprudence, on the 16th day of February, 1937, for consideration, which committee, on the 25th day of March 1937, reported said bill back to the Senate with the recommendation that it do pass, and was thereafter, on the 29th day of March, 1937, placed on the calendar of the Senate, and proposes to repeal the statute legalizing the Certificate System of wagering on the racing of horses in the State of Texas; and

Whereas, His Excellency, the Honorable James V. Allred, Governor of Texas, has announced through the press to the people of this State that if said H. B. No. 53 is not brought to a direct vote at this Session of the Legislature of Texas, he will, immediately upon the adjournment thereof, reconvene the Legislature in extraordinary session for the sole and only purpose of getting a vote upon the subject matter contained in said H. B. No. 53, which special session would entail an expense of more than One Hundred Thousand Dollars (\$100,000.00) to the people of Texas; now, therefore, be it

Resolved, That it is the sense of the members of this body that H. B. No. 53, by Bradbury, proposing the repeal of the statute legalizing the Certificate System of wagering on the racing of horses in this State, be taken up out of its regular order and regularly disposed of at this the Reg-

ular Session of the Forty-fifth Legislature.

The resolution was read.

Senator Woodruff moved that the regular order of business be suspended, to permit consideration of the resolution at this time.

Senator Rawlings raised the point of order that a motion to suspend the regular order of business may not be entertained until after conclusion of the morning call.

The President sustained the point of order.

The resolution was transmitted to the President's table.

**Bills and Resolutions Signed.**

The President signed in the presence of the Senate, after giving due notice thereof, the following enrolled bills and resolutions:

H. B. No. 130, "An Act to give the right of eminent domain to certain conservation and reclamation districts to enable them to acquire by condemnation land on which cemeteries are located under certain conditions, and declaring an emergency."

H. B. No. 407, "An Act prohibiting the barter or sale or offering for barter or sale or to buy any bass, crapple, perch, catfish, or any other fish taken from the fresh water of the Brazos River or within one mile of the mouth of any of the tributaries of the Brazos River within Falls County, State of Texas; and providing a penalty, and declaring an emergency."

H. B. No. 651, "An Act amending Article 6205, Revised Civil Statutes of Texas, 1925, as amended by Section 2 of Chapter 262, Acts, Regular Session of the Forty-second Legislature, 1931, and declaring an emergency."

H. B. No. 663, "An Act providing for the beginning of the terms of certain State and District offices of the State of Texas, and declaring an emergency."

H. B. No. 1155, "An Act amending Section 2 of Article 3883, Revised Civil Statutes of Texas, 1925, as amended by Chapter 20, Acts of the Forty-first Legislature, Fourth Called Session, as amended by Chapter 340, Acts of the Forty-second

Legislature, Regular Session, as amended by Chapter 220, Acts of the Forty-third Legislature, Regular Session, by providing that in counties containing not less than 29,500 nor more than 30,000 population according to the last preceding Federal Census the constable shall be allowed to retain out of the fees collected by such officer the sum of Twenty-four Hundred (\$2,400.00) Dollars, and declaring an emergency."

H. B. No. 1162, "An Act to authorize the Commissioners' Court of Montgomery County to pay bounties under certain conditions for the destruction of wolves, coyotes, wildcats, and other predatory animals and fowls in said County; to make rules and regulations with respect thereto; regulating the issuance of warrants in payment thereof, and declaring an emergency."

H. B. No. 1175, "An Act (Granting easement to the United States in certain lands), and declaring an emergency."

H. B. No. 1176, "An Act amending Section 27 of Article 199, Revised Civil Statutes of Texas, 1925, as amended by Chapter 305, Acts of the Forty-second Legislature, Regular Session, by omitting the January Term of Court in Mills County, Texas, and declaring an emergency."

H. C. R., No. 65, Granting John Haney and Lochwood Allison permission to sue the State Liquor Board and/or the State of Texas for personal injuries.

H. C. R. No. 89, Granting Mrs. Mary Esther Ramsey permission to sue the State of Texas and the Highway Department.

H. C. R. No. 106, Urging the State Parks Board to permit the use of State Parks by Girl and Boy Scouts of Texas.

H. B. No. 36, "An Act amending Article 752 of Chapter 7, Title 12 of the Penal Code of 1925, as amended by Section 15 of Chapter 244, page 606, of the Acts of the Regular Session of the Forty-fourth Legislature; and amending Chapter 7, Title 12 of the Penal Code of 1925, as amended by Section 16 of Chapter 244, page 606, of the Acts of the Regular Session of the Forty-fourth Legislature, and declaring certain legislative intent in respect

to this Act, and declaring an emergency."

S. B. No. 300, "An Act to amend Chapter 74 of the General Laws enacted by the Second Called Session of the Forty-first Legislature authorizing the commissioners' courts of the several counties in Texas to issue refunding bonds for the purpose of refunding road bonds that have been or may hereafter be issued and authorizing the said commissioners' court to issue refunding bonds for the purpose of refunding any outstanding matured interest on any such road bonds, that are issued by authority of statutes enacted pursuant to Section 52 of Article 3 of the Constitution of Texas, for and on behalf of political subdivisions, defined districts and consolidated districts in such counties, and authorizing the commissioners' courts to pass all appropriate orders to carry out such refunding without the necessity of any notice or right to referendum vote; and to levy ad valorem taxes in payment thereof, and declaring an emergency."

#### Senate Bill No. 185 With House Amendments.

Senator Aikin called up Senate Bill No. 185 from the President's table, for consideration of the House amendments to the bill.

The President laid the bill before the Senate, and the House Amendments were read.

Senator Aikin moved that the Senate do not concur in the House amendments and that a free conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

Accordingly, the President announced the appointment of the following free conference committee on the bill on the part of the Senate:

Senators Aikin, Sulak, Cotton, Woodruff and Van Zandt.

#### House Bill No. 280 on Final Passage.

Senator Cotten called up, for consideration at this time, the motion to reconsider the vote by which H. B. No. 280 was passed, which motion was made duly and spread upon the Journal.

The motion to reconsider prevailed.

The President then laid before the Senate, on its final passage:

H. B. No. 280, A bill to be entitled "An Act authorizing, empowering and directing the board of county and district road indebtedness created by Chapter 13, Article 6674Q-1 et seq., Acts of the Third Called Session of the Forty-second Legislature, to make allowance to Henderson County, Texas, as a credit upon its outstanding road indebtedness of the amount of \$60,669.56 and to increase the State aid effective as of January 1, 1933, to Henderson County, Texas, to make payment of such allowance, and declaring an emergency."

Senator Cotten offered the following amendment to the bill:

Amend H. B. No. 280 by Lucas by adding the following proviso immediately after Section 2 of said Act:

"Provided, further, that the Board shall be presented sufficient and positive evidence that the Commissioners' Court of Henderson County or any authorized agent of said court did not at any time authorize, request or instruct anyone to request the Highway Department of the State of Texas to defer collection of the said county warrant issued to the Highway Department on November 18, 1930, in the amount of \$60,669.56, under State Aid Project No. 817-A, before the county shall be entitled to relief under this Act. Provided further that the law of agency shall control.

Question—Shall the amendment be adopted?

#### Free Conference Committee on House Bill No. 293.

The President announced the appointment of the following conferees on the part of the Senate on H. B. No. 293:

Senators Stone, Oneal, Roberts, Rawlings and Moore.

#### Executive Session.

At 10:20 o'clock a. m., the President announced that the hour heretofore set for an executive session of the Senate had arrived, and he requested all those not entitled to at-

tend the executive session to withdraw from the Senate chamber and its galleries and instructed the Sergeant-at-Arms and Doorkeeper to keep closed all doors leading into the chamber and galleries during the executive session.

At the conclusion of the executive session, the Secretary of the Senate informed the Journal Clerk that he had no report to make regarding the executive session.

The President called the Senate to order, as in legislative session, at 11:30 o'clock a. m.

#### Joint Session.

The President announced that the hour heretofore, fixed by the joint action of the two Houses for a joint session to hear an address by Hon. Josephus Daniels had arrived.

The President appointed Senators Oneal, Weinert and Rawlings as the committee on the part of the Senate to escort Hon. Josephus Daniels to the Speaker's stand.

By unanimous consent, the Senate agreed to stand at ease at the conclusion of the joint session to 2:30 o'clock p. m. today.

At the request of the President, the Senators present then proceeded in a body to the Hall of the House of Representatives.

The Honorable Senators were announced at the entrance to the Hall of the House and were duly admitted and escorted to seats already prepared for them.

Hon. Josephus Daniels, accompanied by Governor James V. Allred, was announced at the bar of the House and was escorted to the speaker's stand by Senators Oneal, Rawlings and Weinert on the part of the Senate and Messrs. Moffett, Celaya, and Jones of Atascosa on the part of the House.

Hon. Robert W. Calvert, Speaker of the House of Representatives, presented Governor James V. Allred, who in turn introduced Hon. Josephus Daniels, United States ambassador to the Republic of Mexico.

Ambassador Daniels then addressed the joint session.

At the conclusion of the joint session, the President announced (at 12:15 o'clock p. m.) the Senate

would stand at ease until 2:30 o'clock p. m. today.

#### Afternoon Session.

The Senate was called to order at 2:30 o'clock p. m. by the President.

#### Executive Session.

The President announced that the hour for the Senate to go into executive session had arrived and he requested all those not entitled to attend the executive session to withdraw from the Senate chamber and its galleries and instructed the Sergeant-at-Arms and Doorkeeper to keep closed all doors leading into the Senate chamber or its galleries until the executive session has been concluded.

At the conclusion of the executive session, the Secretary informed the Journal Clerk that the following report of the Committee on Nominations of the Governor had been adopted:

#### Committee Room.

Austin, Texas, May 20, 1937.  
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Governor's Nominations, to whom was referred the following appointments, have had same under consideration, and I, as Chairman of said committee am instructed to report same back to the Senate with the recommendation that they be in all things confirmed:

To be Members of the Brazos River Conservation District:

James Baskin, of Cameron, Milam County to succeed L. E. Seaman deceased for the unexpired term expiring in 1941.

C. M. Caldwell of Abilene, Taylor County (reappointment) six year term).

Wm. Hallmark, of Dublin, Erath County (reappointment six year term).

Jno. M. Lawrence, of Bryan, Brazos County (reappointment, six year term).

Geo. G. Chance, of Bryan, Brazos County (reappointment, six year term).

J. A. Fox, of Granger, Williamson County (reappointment, six year term)

Herbert Hilburn, of Plainview, Hale County (reappointment, six year term).

A. A. Morrison, of Graham, Young County (reappointment, six year term).

To be District Attorney of the 110th Judicial District:

John A. Hamilton, of Matador, Motley County, to succeed Alton B. Chapman, resigned.

To be a Member of the State Board of Hair Dressers and Cosmetologists:

Mrs. B. L. Neal, of Wichita Falls, Wichita County, (reappointment).

To be a Member of the State Board of Water Engineers:

John W. Pritchett of Austin, Travis County (reappointment).

To be a Member of the State Board of Control:

Tom DeBerry, of Bogata, Red River County, effective January 1, 1938..

To be a Member of the State Pharmacy Board:

Paul D. Carroll, of Texarkana, Bowie County (reappointment).

To be Members of the State Parks Board; (Pursuant to Senate Bill No. 488, just passed by the Legislature, increasing the membership of the State Parks Board from 5 to 6 members):

2 year terms:

Pat M. Neff, of Waco, McLennan County.

Gus F. Urbanke, of Austin, Travis County.

4 year terms:

Tom L. Beauchamp of Tyler, Smith County.

K. N. Clapp, of Lubbock, Lubbock County.

6 year terms:

Wendell Mayes, of Brownwood, Brown County.

J. V. Ash, of Bastrop, Bastrop County.

To be a Member of the Pease River Flood Control District:

Fay E. Eggleston of Vernon, Wilbarger County, to succeed T. Edgar Johnson, resigned.

To be Members of the State Board of Nurse Examiners:



Sister Gertrude Giblin, of Austin, Travis County for the full six year term succeeding Mrs. Grace Engblad, of Houston.

Miss Buris Westbrook, of Newton County, for the unexpired term of Sister Mary Gertrude Giblin ending in 1939.

To be Chairman of the Industrial Accident Board:

Otto Studer, of Pampa, Gray County, to succeed Earl Adams, effective September 1, 1937.

ONEAL, Chairman.

**Notaries Public.**

The Secretary further reported that all nominations of notaries public heretofore submitted had been confirmed by the Senate; and also that the confirmation of A. P. Mireles as Notary Public in and for Nueces County had been reconsidered and his confirmation refused.

[The list of notaries public for the term beginning June 1, 1937, has been separately printed as a Supplement to the Journal.]

The Senate was called to order by the President as in legislative session, at 3:55 o'clock p. m.

**Report of Conference Committee on House Bill No. 838.**

Senator Spears called up for consideration at this time, the motion

to reconsider the vote by which the report of the Conference Committee on H. B. No. 838 was adopted, which motion was made duly and spread upon the Journal.

The motion to reconsider prevailed.

Senator Redditt then withdrew the report as previously submitted and submitted the following report of the Free Conference Committee on the bill:

Committee Room,  
Austin, Texas, May 19, 1937.

Hon. Walter F. Woodul, President of the Senate,

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the two Houses in H. B. No. 838, beg leave to report that we have had same under consideration, and recommend that it do pass in the form and text attached hereto.

Respectfully submitted,

REDDITT,

HEAD,

WEINERT,

SMALL,

On the part of the Senate.

GRAVES,

REED,

JONES of Falls,

CAGLE,

On the part of the House.

H. B. No. 838.

By Graves.

**A BILL  
To Be Entitled**

An Act making an appropriation for the support and maintenance of the Judiciary of the State of Texas for the biennium beginning September 1, 1937, and ending August 31, 1939; requiring certain fees paid to clerks or officers of all Appellate Courts to be deposited monthly in the State Treasury; prescribing certain rules and restrictions respecting the expenditures of appropriations made herein; suspending all laws in conflict herewith; declaring the invalidity of any portion of this Act shall not affect any other portion and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the several sums of money herein specified, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purposes herein indicated, as follows:

**COURT OF CIVIL APPEALS  
First District, Galveston, Texas**

	For the Years Ending	
	August 31, 1938	August 31, 1939
1. Salaries of three judges at \$6,500.00 each per year	\$ 19,500.00	\$ 19,500.00
2. Salary of Clerk	4,000.00	4,000.00

	For the Years Ending	
	August 31, 1938	August 31, 1939
3. Salaries of deputy clerks and/or law clerks and/or stenographers.....	3,420.00	3,420.00
4. Salary of porter.....	720.00	720.00
5. Fuel, lights, water, equipment, main- tenance and contingent expenses.....	650.00	650.00
6. Books for library.....	625.00	625.00
Total .....	\$ 28,945.00	\$ 28,945.00

**COURT OF CIVIL APPEALS**  
Second District, Fort Worth, Texas

1. Salaries of three judges at \$6,500.00 each per year .....	\$ 19,500.00	\$ 19,500.00
2. Salary of Clerk .....	4,000.00	4,000.00
3. Salaries of deputy clerks and/or law clerks and/or stenographers.....	3,420.00	3,420.00
4. Salary of porter.....	720.00	720.00
5. Equipment, maintenance and contin- gent expenses .....	500.00	500.00
6. Books for library.....	625.00	625.00
Total .....	\$ 28,765.00	\$ 28,765.00

**COURT OF CIVIL APPEALS**  
Third District, Austin, Texas

1. Salaries of three judges at \$6,500.00 each per year .....	\$ 19,500.00	\$ 19,500.00
2. Salary of Clerk .....	4,000.00	4,000.00
3. Salaries of deputy clerks and/or law clerks and/or stenographers.....	3,420.00	3,420.00
4. Salary of porter .....	720.00	720.00
5. Equipment, maintenance and contin- gent expenses .....	900.00	600.00
6. Books for library.....	400.00	400.00
7. Covering consultation room .....	200.00	
Total .....	\$ 29,140.00	\$ 28,640.00

**COURT OF CIVIL APPEALS**  
Fourth District, San Antonio, Texas

1. Salaries of three judges at \$6,500.00 each per year .....	\$ 19,500.00	\$ 19,500.00
2. Salary of Clerk .....	4,000.00	4,000.00
3. Salaries of deputy clerks and/or law clerks and/or stenographers.....	3,420.00	3,420.00
4. Salary of porter .....	720.00	720.00
5. Equipment, maintenance and contin- gent expenses .....	500.00	500.00
6. Books for library.....	625.00	625.00
Total .....	\$ 28,765.00	\$ 28,765.00

**COURT OF CIVIL APPEALS**  
Fifth District, Dallas, Texas

1. Salaries of three judges at \$6,500.00 each per year .....	\$ 19,500.00	\$ 19,500.00
2. Salary of Clerk .....	4,000.00	4,000.00

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	For the Years Ending	
	August 31, 1938	August 31, 1939
3. Salaries of deputy clerks and/or law clerks and/or stenographers.....	3,420.00	3,420.00
4. Salary of porter.....	720.00	720.00
5. Equipment, maintenance and contingent expenses.....	500.00	500.00
6. Books for library.....	625.00	625.00
Total .....	\$ 28,765.00	\$ 28,765.00

## COURT OF CIVIL APPEALS Sixth District, Texarkana, Texas

1. Salaries of three judges at \$6,500.00 each per year.....	\$ 19,500.00	\$ 19,500.00
2. Salary of Clerk.....	4,000.00	4,000.00
3. Salaries of deputy clerks and/or law clerks and/or stenographers.....	3,420.00	3,420.00
4. Salary of porter.....	720.00	720.00
5. Light, fuel, equipment, maintenance and contingent expenses.....	725.00	725.00
6. Books for library.....	625.00	625.00
Total .....	\$ 28,990.00	\$ 28,990.00

## COURT OF CIVIL APPEALS Seventh District, Amarillo, Texas

1. Salaries of three judges at \$6,500.00 each per year.....	\$ 19,500.00	\$ 19,500.00
2. Salary of Clerk.....	4,000.00	4,000.00
3. Salaries of deputy clerks and/or law clerks and/or stenographers.....	3,420.00	3,420.00
4. Salary of porter.....	750.00	750.00
5. Equipment, maintenance and contingent expenses.....	500.00	500.00
6. Books for library.....	625.00	625.00
Total .....	\$ 28,795.00	\$ 28,795.00

## COURT OF CIVIL APPEALS Eighth District, El Paso, Texas

1. Salaries of three judges at \$6,500.00 each per year.....	\$ 19,500.00	\$ 19,500.00
2. Salary of Clerk.....	4,000.00	4,000.00
3. Salaries of deputy clerks and/or law clerks and/or stenographers.....	3,420.00	3,420.00
4. Salary of porter.....	750.00	750.00
5. Equipment, maintenance and contingent expenses.....	500.00	500.00
6. Books for library.....	625.00	625.00
Total .....	\$ 38,795.00	\$ 28,795.00

## COURT OF CIVIL APPEALS Ninth District, Beaumont, Texas

1. Salaries of three judges at \$6,500.00 each per year.....	\$ 19,500.00	\$ 19,500.00
2. Salaries of deputy clerks and/or law clerks and/or stenographers.....	3,420.00	3,420.00

	For the Years Ending	
	August 31, 1938	August 31, 1939
4. Salary of porter.....	720.00	720.00
5. Equipment, maintenance and contin- gent expenses .....	500.00	500.00
6. Books for library.....	625.00	625.00
Total .....	\$ 28,765.00	\$ 28,765.00

## COURT OF CIVIL APPEALS

Tenth District, Waco, Texas

1. Salaries of three judges at \$6,500.00 each per year .....	\$ 19,500.00	\$ 19,500.00
1a. Salary of one special commissioner.....	6,500.00	6,500.00
2. Salary of Clerk .....	4,000.00	4,000.00
3. Salaries of deputy clerks and/or law clerks and/or stenographers .....	3,420.00	3,420.00
4. Salary of porter.....	720.00	720.00
5. Equipment, maintenance and contin- gent expenses .....	500.00	500.00
6. Books for library, repairs to furniture .....	950.00	950.00
Total .....	\$ 35,590.00	\$ 35,590.00

## COURT OF CIVIL APPEALS

Eleventh District, Eastland, Texas

1. Salaries of three judges at \$6,500.00 each per year .....	\$ 19,500.00	\$ 19,500.00
2. Salary of Clerk .....	4,000.00	4,000.00
3. Salaries of deputy clerks and/or law clerks and/or stenographers .....	3,420.00	3,420.00
4. Salary of porter.....	720.00	720.00
5. Equipment, maintenance and contin- gent expenses .....	500.00	500.00
6. Books for library.....	625.00	625.00
Total .....	\$ 28,765.00	\$ 28,765.00
Traveling expenses of judges of Courts of Civil Appeals when sitting in other dis- tricts .....	\$ 1,500.00	\$ 1,500.00

SUPREME COURT AND SUPREME COURT COMMISSION OF APPEALS,  
SECTIONS A AND B

1. Salaries of three judges of Supreme Court at \$8,000.00 each per year.....	\$ 24,000.00	\$ 24,000.00
2. Salaries of six judges of Supreme Court Commission of Appeals, Sections A and B at \$7,500.00 each per year.....	45,000.00	45,000.00
3. Salary of clerk of Supreme Court, in- cluding salary for services to Com- mission of Appeals .....	5,400.00	5,400.00
4. Salary of reporter .....	3,800.00	3,600.00
5. Salaries of two briefing clerks and law clerk-secretaries to the Supreme Court, one not to exceed \$3,000 per year, one not to exceed \$2,750.00 per year; and two law clerk-secre- taries to the Supreme Court not to exceed \$2,400 each per year; and four law-clerk-secretaries to the Commission of Appeals at not more than \$1,800 each per year.....	21,600.00	21,600.00

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	For the Years Ending	
	August 31, 1938	August 31, 1939
6. Salary of marshall and assistant librarian	2,100.00	2,100.00
7. Salary of two porters at \$720 each per year and salary of one porter and record room clerk at \$1,000 per year	2,440.00	2,440.00
8. Salary of one deputy who shall also act as secretary to the Board of Legal Examiners, not to exceed \$3,300 per year, and three deputies not to exceed \$2,700 each per year to be determined by the Clerk with the consent of the Court.	11,400.00	11,400.00
9. One deputy clerk and assistant secretary to the Board of Legal Examiners at \$2,100 per year.	2,100.00	2,100.00
10. Printing, postage, express, books, re-binding, repairs, furniture, equipment, cases and contingent expenses..\$	5,000.00	\$ 5,000.00
Total	\$ 122,640.00	\$ 122,640.00

## COURT OF CRIMINAL APPEALS AND COMMISSION IN AID OF COURT OF CRIMINAL APPEALS

1. Salaries of three judges at \$8,000 each per year	\$ 24,000.00	\$ 24,000.00
2. Salaries of two judges of Commission in Aid of Court of Criminal Appeals at \$7,500 each per year	15,000.00	15,000.00
3. Salary of clerk	4,500.00	4,500.00
4. Salary of Bailiff	2,400.00	2,400.00
5. Salaries of briefing clerks and of law clerk-secretaries, who also do legal research work for the Court of Criminal Appeals and the Commission in Aid of the Court; salaries of briefing clerks not to exceed \$2,400 each per year and of law clerk-secretaries not to exceed \$2,100 each per year	9,000.00	9,000.00
6. Salary of Court Reporter	4,000.00	4,000.00
6a. Salary of Sec.-Clerk Court Reporter	1,800.00	1,800.00
7. Salary of porter	720.00	720.00
8. Postage, telephone, box rent, record books, stationery, furniture, filing cases, filing envelopes, typewriters, pictures of deceased judges and contingent expenses	2,000.00	2,000.00
Total	\$ 63,420.00	\$ 63,420.00

## STATE PROSECUTING ATTORNEY BEFORE THE COURT OF CRIMINAL APPEALS

1. Salary of attorney	\$ 6,000.00	\$ 6,000.00
2. Salary of secretary and law clerk	2,100.00	2,100.00
3. Law books, telephone, postage, furniture, supplies, equipment, and contingent expenses	750.00	750.00
Total	\$ 8,850.00	\$ 8,850.00

Judiciary Section, Comptroller's Department		
	For the Years Ending	
	August 31, 1938	August 31, 1939
1. Salaries of 128 District Judges and Criminal District Judges at \$5,000 each per year.....	\$ 640,000.00	\$ 640,000.00
2. Salaries, including the \$500 Constitutional allowance of 52 District Attorneys at \$4,000 per year (as per Chapter 442, Second Called Session, Forty-fourth Legislature) .....	208,000.00	208,000.00
3. Salary of Criminal District Attorney in districts composed of two or more counties (Section 18, Chapter 465, Forty-fourth Legislature) .....	4,500.00	4,500.00
4. Salary of District Attorney of 34th District (El Paso).....	5,500.00	5,500.00
5. Salary of Assistant District Attorney of 34th District (El Paso).....	2,700.00	2,700.00
6. Salaries of Assistant District Attorneys of 53rd District (Travis County), first Assistant at \$2,700 per year .....	5,700.00	5,700.00
7. Salary of Assistant District Attorney of Special 9th District (H. B. No. 142, First Called Session of Forty-third Legislature) .....	2,750.00	2,750.00
8. Salary of one Assistant District Attorney or one investigator in 49th District .....	1,800.00	1,800.00
9. Compensation of one Assistant District Attorney or one special investigator for each of the following judicial districts: 49th, 53rd, 30th and 72nd; total of 4 assistants at \$1,800.00 each per year.....	7,200.00	7,200.00
9a. Salary of Assistant District Attorney in 47th District .....	2,510.00	2,510.00
10. Salary of Assistant District Attorney of 22nd District (per Article 326K-3, Revised Civil Statutes of Texas, 1925) .....	3,600.00	3,600.00
11. District Judges and District Attorneys expenses in districts composed of two or more counties (per Article 6820, Revised Civil Statutes of Texas, 1925) payable quarterly .....	47,400.00	47,400.00
12. Special District Judges' salaries and regular District Judges' expenses when holding Court out of their districts .....	7,500.00	7,500.00
13. Transcript fees to official court reporters for narrative statement of facts and/or in cases where court is required and does appoint attorney to represent defendant in criminal action, and when official reporter is required and does furnish defendant's attorney with transcript of his notes as is provided by law.....	1,000.00	1,000.00

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		For the Years Ending	
		August 31, 1938	August 31, 1939
14.	Fees and cost of officials in cases of escheated estates, including accrued fees	50.00	50.00
15.	Fees and cost of Sheriffs, Attorneys and clerks in felony cases, and fees of County Judges, County Attorneys, Justices of the Peace, Sheriffs and Constables in examining trials where indictments are returned	218,546.00	218,546.00
16.	Apportionment to counties where county officers are paid salaries. (per Chapter 465, Section 6a, Second Called Session, Acts Forty-fourth Legislature)	436,090.00	436,090.00
17.	Apportionments to counties where county officers are paid salaries and where there is a Criminal District Attorney or County Attorney performing the duties of District Attorneys (for 33 counties; per subsection B, Section 13, Chapter 465, Acts Forty-fourth Legislature)	146,429.00	146,429.00
18.	Expenses of attached witnesses, witness fees, and mileage allowed witnesses in felony cases where the witness lives outside the county where the case is being tried	210,000.00	210,000.00
19.	Special Judges of Supreme Court, Court of Criminal Appeals and Civil Appeals, where regular Judges are disqualified and where special Judges are appointed; per diem to be same as regular District Judge receives	1,200.00	1,200.00
20.	Expenses of Civil Judicial Council (per Senate Bill No. 52, First Called Session, Forty-first Legislature)	1,350.00	1,350.00
21.	Traveling expenses of Judges of Courts of Civil Appeals when sitting in other districts	1,500.00	1,500.00
Total		\$ 1,955,325.00	\$ 1,955,325.00

## GENERAL PROVISIONS—JUDICIARY

Sec. 2. All amounts appropriated in this Act for law books, or expended therefor under authority of this Act, shall be paid out of the General Fund and the special accounts in the General Revenue Fund as hereinafter provided. In accordance with the provisions of Chapter 104 of the printed General Laws of the Regular Session of the Forty-fourth Legislature, the several Courts of Civil Appeals are hereby authorized to purchase additional law books out of their local receipts, and there are hereby appropriated to each of said courts for such purposes for each of the fiscal years ending August 31, 1938, and August 31, 1939, the sum of Six Hundred and Twenty-five (\$625.00) Dollars out of their local receipts in addition to the specific amounts herein appropriated for library books for said courts; provided further, and in accordance with said law that any of said Courts of Civil appeals receiving a specific appropriation of less than \$625.00 per year for library books shall not expend from said local receipts more than the said specific amount herein appropriated.

Sec. 3. The salaries of all deputy clerks, law clerks, law clerk-sec-

retaries, briefing clerks, secretaries and stenographers for whom appropriations are made in this Act in lump sums shall be fixed by the several courts at not exceeding the amounts specified herein. However if any such employee's services are not needed or used his salary shall not be used to supplement other employee's salaries.

Sec. 4. All fees paid to any court for which appropriations are made herein or to any of the clerks, officers or employees of any such court, whether such fees are for official or unofficial copies of opinions, carbon copies, or for other services or documents, shall be deposited at the close of each month in the General Revenue Fund of the State Treasury and shall be carried as a special account in said fund for the court depositing same, and none of such fees shall be retained by or paid to said clerks, officers or employees. Each court employee whose salary is provided for herein, except porters, shall file with such court monthly payroll and with the Comptroller at the end of each month an affidavit showing that he has not retained any compensation out of any court fees or other fees received by him or the court during the previous month and showing that all such fees have been deposited in the State Treasury. The Comptroller shall not issue a warrant in payment of the salary of any such employee for any month unless and until the affidavit required herein has been filed for said previous month.

Sec. 5. (a). Appropriations made in this Act are intended to be, and shall be, construed as being the maximum sums, respectively, except the extra amounts for library books herein provided, which may be used in any way for the purposes or objects named in the Act, and obligations shall not be incurred in any case which, when the amount thereof added to expenditures actually made, will exceed such maximum sum; and no surplus shall be diverted from one appropriation to another.

(b). All printing and stationery shall be purchased through the Board of Control and shall be confined to such articles and qualities as selected and contracted for by the Board of Control.

(c). No account against any items of witness fees, County Attorneys', Justices' of Peace, Sheriffs', and Constables' fees, and costs of Sheriffs, Attorneys and Clerks in felony cases, shall be binding as an obligation against the State of Texas, until such account shall have been examined, audited, and approved by the State Comptroller, and no such account shall be paid by the State Treasurer until the same has been approved by the Comptroller.

(d). It shall be the duty of each of the Appellate Courts and judicial agencies of the State annually, and within sixty (60) days after the close of the State's fiscal year, to make a sworn statement to the Governor and the Board of Control of all amounts received and/or expended by said court and/or agency. A report from each court shall be filed annually for the calendar year with the Governor, and a copy thereof with the State Board of Control, showing the total number of cases filed in each court during the year, the number of cases transferred to and from each court, the number of cases disposed of with proper divisional classification as to total number of cases similarly disposed of, that is, by dismissal, final judgment, reversal, affirmance and any other statistical data which may be required by the Governor or State Board of Control.

(e). Annual salaries provided for herein shall be paid in twelve (12) equal monthly installments.

(f). No funds appropriated in this bill shall be used to pay any expense of traveling outside the boundaries of the State of Texas except for returning fugitives on trips authorized by the Governor, or for payment (or reimburse for payment) of any tip or gratuity whatsoever.

(g). Each officer, agent or employee of a court named in this Act and entitled to be paid a salary or other compensation out of any appropriation above made shall be paid by warrant and/or check issued in his or her name and specifically showing the amount of salary or sum due and the services for which the payment is being made (with date or dates and place or places of performance of such services) such warrant and/or check to be endorsed, before payment thereof, by such officer, agent or employee.



(h). Money appropriated above for stamps or postage shall be expended only upon warrants made payable to a Postmaster and endorsed by such Postmaster or his deputy or authorized clerk.

(i). That portion of every appropriation out of State funds or local receipts made herein which is unexpended at the close of the fiscal year for which the appropriation is made shall immediately revert to and become a part of the General Revenue Fund. It is hereby provided that the word "unexpended" as used in this Act means "not disbursed nor contracted to be disbursed."

Sec. 6. All laws and parts of laws in conflict herewith are expressly suspended for the period of the biennium for which this appropriation is made.

Sec. 7. If any section, sentence, clause, or part of this Act shall, for any reason, be held to be invalid, such decision shall not affect the remaining portions of this Act, and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause, or part thereof irrespective of the fact that any other sentence, section, clause or part thereof may be declared invalid.

Sec. 8. The fact that the above and foregoing is one of the regular appropriation bills to pay the salaries, support, maintenance and operation of the Judiciary and other important agencies of the State for the two (2) fiscal years beginning September 1, 1937, and ending August 31, 1939, and the crowded condition of the calendars of the two Houses of the Legislature, create an emergency and an imperative public necessity, requiring the Constitutional Rule that bills be read on three several days be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

## RECAPITULATION

	For the Years Ending	
	August 31, 1938	August 31, 1939
Court of Civil Appeals, First District, Galveston	\$ 28,945.00	\$ 28,945.00
Court of Civil Appeals, Second District, Fort Worth	28,765.00	28,765.00
Court of Civil Appeals, Third District, Austin	29,140.00	28,640.00
Court of Civil Appeals, Fourth District, San Antonio	28,765.00	28,765.00
Court of Civil Appeals, Fifth District, Dallas	28,765.00	28,765.00
Court of Civil Appeals, Sixth District, Texarkana	28,990.00	28,990.00
Court of Civil Appeals, Seventh District, Amarillo	28,795.00	28,795.00
Court of Civil Appeals, Eighth District, El Paso	28,795.00	28,795.00
Court of Civil Appeals, Ninth District, Beaumont	28,765.00	28,765.00
Court of Civil Appeals, Tenth District, Waco	35,590.00	35,590.00
Court of Civil Appeals, Eleventh District, Eastland	28,765.00	28,765.00
Traveling Expenses of Judges of Courts of Civil Appeals when sitting in other districts	1,500.00	1,500.00
	<b>\$ 325,580.00</b>	<b>\$ 325,080.00</b>
Supreme Court and Supreme Court Commission of Appeals, Sections A. and B.	\$ 122,640.00	\$ 122,640.00
Court of Criminal Appeals and Commission in Aid of Court of Criminal Ap-		

	For the Years Ending	
	August 31, 1938	August 31, 1939
peals; and State prosecuting Attorney before Court of Criminal Appeals.....	72,270.00	72,270.00
Judiciary of Comptroller's Department.....	1,955,325.00	1,955,325.00
Grand Totals .....	\$ 2,475,815.00	\$ 2,475,315.00
Combined Grand Total.....	\$ 4,951,130.00	

On motion of Sen. Redditt, the report was adopted.

**Report of Free Conference Committee on House Bill No. 1169.**

Senator Moore submitted the following report of the free conference committee appointed to adjust the differences between the two Houses on H. B. No. 1169:

Committee Room,  
Austin, Texas, May 20, 1937.  
Hon. Walter F. Woodul, President of the Senate;  
Hon. R. W. Calvert, Speaker of the House of Representatives.

Sirs: We, your Conference Committee appointed to adjust the differences between the Senate and the House of Representatives on H. B. No. 1169, do report that we have had the same under consideration and recommend to the Senate and House of Representatives that it do pass in the form attached hereto.

Respectfully,

MOORE,  
RAWLINGS,  
SHIVERS,  
SPEARS,  
WESTERFELD,

On the part of the Senate.

JOHNSON of Tarrant,  
HEFLIN,  
HOWARD,  
CARSSOW,

On the part of the House.

By Howard, et al. H. B. No. 1169.

**A BILL**

**To Be Entitled**

An Act fixing the compensation of official shorthand reporters in District Courts, Criminal District Courts and County Courts-at-Law in all counties having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants, according to the last preceding or any future Federal Census and in counties having a popu-

lation of more than two hundred and ninety thousand (290,000) and less than three hundred and twenty-five thousand (325,000) inhabitants according to the last preceding or any future Federal Census; providing methods of payment; providing that if any section, paragraph, sentence, clause, phrase or part of this Act be invalid, such invalidity shall not affect the remainder thereof; repealing all laws and parts of laws in conflict to the extent of such conflict only; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the official shorthand reporter of each District Court, Criminal District Court and County Court-at-Law in each county in the State of Texas having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants, according to the last preceding or any future Federal Census, shall receive a salary of Thirty-six Hundred Dollars (\$3600) per annum in addition to the compensation for transcript fees as provided by law. Said salary shall be paid monthly on approval of the Judge of such court out of the General Fund of the county.

Sec. 2. That the official shorthand reporter of each District Court, Criminal District Court and County Court-at-Law in each county in the State of Texas having a population of more than two hundred and ninety thousand (290,000) and less than three hundred and twenty-five thousand (325,000) inhabitants, according to the last preceding or any future Federal Census, shall receive a salary of Thirty-six Hundred Dollars (\$3600) per annum in addition to the compensation for transcript fees as provided by law. Said salary shall be paid monthly on approval of the Judge of such Court out of the General Fund of the county.

Sec. 3. If any section, sentence, clause, phrase or part of this Act be held invalid for any reason, such invalidity shall not affect the remainder of the Act.

Sec. 4. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only.

Sec. 5. The rapidly rising cost of living and the expense to the official shorthand reporters of preparing many records on paupers' oaths without cost to litigants, due to the filing of many suits on such paupers' oaths, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the report be adopted?

The report was adopted by the following vote:

Yeas—29.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Oneal	

Absent—Excused.

Davis Newton

#### House Bill No. 280 on Final Passage.

The Senate resumed consideration of pending business, H. B. No. 280, providing for State aid to Henderson County in payment of the county's outstanding road indebtedness, on its final passage, with amendment by Senator Cotten pending.

Senator Woodruff offered the following amendment to the amendment:

Amend Cotten amendment to H. B. 280 by adding at the end thereof the following:

"Provided further, that the Board shall deem the facts and circumstances to be sufficient, and shall so find, that the Highway Commission knew, or had reason to believe, that T. L. Wynne was not representing Henderson County, nor the County Commissioners Court in requesting, on or about January 13, 1931, that said warrant be not presented for payment until some date after that in the face of said warrant, or in so requesting the Highway Commission at any other time."

Pending consideration of the amendment to the amendment, Senator Aikin occupied the chair temporarily.

Question—Shall the amendment to the amendment be adopted?

#### Senate Bill No. 424 with House Amendments.

Senator Spears called up Senate Bill No. 424 from the President's table, for consideration of the House amendments to the bill.

The President laid the bill before the Senate, and the House amendments were read.

Senator Spears moved that the Senate concur in the House amendments.

The motion prevailed by the following vote:

Yeas—27.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Oneal	

Nays—1.

Holbrook

Absent.

Weinert

Absent—Excused.

Davis

Newton

**Messages From the House.**

A Clerk from the House was recognized to present the following messages:

Hall of the House of Representatives,  
Austin, Texas, May 20, 1937.

Hon Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has rejected the Conference Committee report on House Bill No. 1169 and requests the conferees to consider further the differences between the two Houses.

The House has passed the following bill:

S. B. No. 185, A bill to be entitled "An Act appropriating Five Million Dollars (\$5,000,000.00) per year, or so much thereof as may be necessary for the next biennium beginning September 1st, 1937, and ending August 31st, 1939, for the purpose of promoting public school interest and equalizing the educational opportunities afforded by the State to all children of scholastic age within the State, attaching conditions, regulations and limitations relative thereto; authorizing aid to such schools in accordance with the conditions specified herein; providing for the maintenance for certain length of term of all schools meeting the requirements of this Act; authorizing the use of an amount not to exceed a certain sum for the payment of each year of the biennium for high school tuition for rural school pupils according to the provisions of H. B. No. 158, General Laws, Regular Session, Forty-fourth Legislature; providing for the payment of transportation aid under certain conditions; specifying the penalties for violation of any provision of this Act; providing assistance for rural schools that will afford instruction and demonstration in home and farm vocations, providing all costs of administering funds named in Section 13, shall be paid out of money appropriated in this Act and shall not exceed amounts appropriated by the general appropriation bill for support and maintenance of the executive and administrative departments and agencies of the State for the biennium ending August 31st, 1939; authorizing the State Board of Education to administer the funds

appropriated herein; providing purposes for which funds appropriated hereunder may be used; defining powers of State Board bonds issued by counties for the construction of roads within such counties and the levy of taxes for payment of such county bonds; authorizing the assessment and collection of general ad valorem taxes in all such counties for the payment of such county bonds now outstanding or hereafter issued; and declaring an emergency."

(With Amendments.)

The House has concurred in Senate amendments to H. B. No. 420 by a vote of 122 yeas, 0 nays.

The House has adopted the Conference Committee report on H. B. No. 1053 by a vote of 116 yeas, 0 nays.

The House has adopted the Conference Committee report on S. B. No. 140 by a vote of 116 yeas, 8 nays.

The House has adopted the conference committee report on S. B. No. 47 by a vote of 115 yeas, 6 nays.

House has refused to concur in Senate Amendments to H. B. No. 943 and requests the appointment of a conference committee to adjust the differences between the two Houses. The following are appointed on the part of the House as conferees:

Messrs. Holland, Walker, Hankamer, Jones of Wise, Keefe.

The House has concurred in Senate amendments to H. B. No. 746 by a viva voce vote.

The House has refused to concur in Senate amendments to H. B. No. 207 and requests the appointment of a conference committee to adjust the differences between the two Houses. The following are appointed on the part of the House:

Messrs. Settle, Blankenship, Boyer, Cauthorn and Sewell.

The House has granted the request of the Senate for the appointment of a conference committee to consider the differences between the two Houses on S. B. No. 185. The following have been appointed as conferees on the part of the House with instructions to change the high school tuition in said bill from Seven Dollars (\$7.00) to Seven Dollars and Fifty Cents (\$7.50):

Messrs. Settle, Amos, Harbin, London, and Patterson of Mills.

The House has concurred in Senate amendments to H. B. No. 489 by a vote of 119 yeas and 0 nays.

The House has concurred in Senate amendments to H. B. No. 821 by a vote of 129 yeas, 0 nays.

The House has concurred in Senate amendments to H. B. No. 7 by a viva voce vote.

The House has adopted the Conference Committee report on H. B. No. 1169 by a vote of 123 yeas, 3 nays.

The House has concurred in Senate amendments to H. B. No. 1180 by a vote of 125 yeas, 0 nays.

The House has concurred in Senate amendments to H. B. No. 670 by a viva voce vote.

The House has concurred in Senate amendments to H. B. No. 181 by a vote of 118 yeas, 0 nays.

The House has concurred in Senate amendments to H. B. No. 163 by a vote of 128 yeas, 0 nays.

The House has adopted the Conference Committee report on H. B. No. 24 by a vote of 79 yeas, 41 nays.

The House has passed the following resolutions:

H. C. R. No. 143, Authorizing the Enrolling Clerk of the House to make certain corrections in H. B. No. 572.

S. C. R. No. 73, Authorizing the Conference Committee on H. B. No. 24 to make certain corrections in their report.

H. C. R. No. 146, Instructing the Enrolling Clerk of the Senate to make certain corrections in S. B. No. 140.

Respectfully submitted,

LOUISE SNOW PHINNEY,

Chief Clerk, House of Representatives.

Hall of the House of Representatives,  
Austin, Texas, May 21, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Conference Committee report on H. B. No. 838 by a vote of 96 yeas and 11 nays.

The House has adopted the Conference Committee report on S. B. No. 499 by a vote of 113 yeas, 0 nays.

The House has adopted the Con-

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ference Committee report on S. B. No. 179 by a vote of 86 yeas, 28 nays.

The House has adopted the Conference Committee report on S. B. No. 195 by a vote of 105 yeas, 0 nays.

The House has adopted the Conference Committee report on H. B. No. 557 by a vote of 117 yeas, 0 nays.

The House has refused to concur in Senate amendments to H. B. No. 1143 and requests the appointment of a conference committee to adjust the differences between the two Houses. The following are appointed on the part of the House:

Messrs. Carssow, Alsup, Wood, Palmer and Skaggs.

The House has adopted the following resolutions:

H. C. R. No. 147, Suspending all rules for the purpose of allowing the Senate to consider H. B. No. 1149.

H. C. R. No. 148, Suspending all rules to allow the Senate to consider H. B. No. 322.

The House has passed the following resolutions:

H. C. R. No. 144, Requesting the Senate Committee on Constitutional Amendments to report on H. J. R. No. 10.

H. C. R. No. 149, Suspending all rules to allow the Senate to consider House Bills Nos. 704 and 1173.

S. C. R. No. 68, In relation to an appropriation to John Tarleton Agricultural College.

Respectfully submitted,

LOUISE SNOW PHINNEY,

Chief Clerk, House of Representatives.

Report of Conference Committee on Senate Bill No. 47 Adopted.

Senator Cotten moved that the report of the Free Conference Committee on S. B. No. 47, submitted on yesterday, be adopted.

The motion prevailed by the following vote:

Yeas—27.

Aikin	Hill
Beck	Isbell
Brownlee	Lemens
Burns	Moore
Collie	Neal
Cotten	Nelson
Head	Oneal

Pace	Stone
Rawlings	Sulak
Redditt	Van Zandt
Roberts	Westerfeld
Shivers	Winfield
Small	Woodruff
Spears	

Nays—1.

Holbrook

Absent.

Weinert

Absent—Excused.

Davis

Newton

**House Concurrent Resolution  
No. 146.**

The President laid before the Senate the following resolution, received from the House today:

H. C. R. No. 146, Authorizing the insertion of an additional item in enrolled copy of S. B. No. 140.

The resolution was read and by unanimous consent, was adopted at this time.

**House Concurrent Resolution  
No. 143.**

The President laid before the Senate the following resolution received from the House today:

H. C. R. No. 143, Authorizing correction in enrolled copy of H. B. No. 72.

The resolution was read, and by unanimous consent, was adopted at this time.

**Report of Free Conference Committee on Senate Bill No. 259.**

Senator Woodruff submitted the following report of the Conference Committee on S. B. No. 259:

Committee Room.

Austin, Texas, May 21, 1937.

Hon. Walter F. Woodul, President of the Senate,

Hon. R. W. Calvert Speaker of the House of Representatives.

Sirs: We your Conference Committee, appointed to adjust differences between the House and Senate on S. B. No. 259, have had same under consideration and beg leave to report that we have adjusted the differences between the Senate and House on said bill and recommend

that same be passed in the form attached hereto.

Respectfully submitted,  
WOODRUFF,  
NEAL,  
COLLIE,  
HOLBROOK,

On part of the Senate.

LEONARD,  
KNETSCH,  
KEITH,

On part of the House.

**A BILL**

**To Be Entitled**

An Act providing for the apprehension, arrest and trial of persons not charged with criminal offense, alleged to be of unsound mind, by filing of information under oath before a county judge or justice of the peace, and the issuance of a warrant of arrest thereon and return thereof to the county judge; providing for the setting of a time and place for the hearing of said complaint and for notice thereof to such persons; providing for the summoning of a jury to hear and determine the issues to be submitted in said cause; providing for a procedure for determining and adjudicating the restoration to sound mind; providing for the protection of those dealing with persons of unsound mind who have not been so adjudicated; providing that this Act shall not affect any pending court action or proceeding, and that if any section, clause, or provision of this Act shall be declared to be invalid, such holding shall not affect any other section, clause, or provision hereof; providing that this Act shall be cumulative of Articles 5550 to 5561, both Articles inclusive, of the 1925 Revised Civil Statutes of Texas; and validating proceedings, orders, and judgments of county or probate courts adjudging certain persons to be of unsound mind, and declaring an emergency. Be it enacted by the Legislature of the State of Texas:

Section 1. If information in writing under oath be given to any county judge that any person in his county, not charged with a criminal offense, is a person of unsound mind, and that the welfare of either such person or any other person or

persons requires that he be placed under restraint, and such county judge shall believe such information to be true, he shall forthwith issue a warrant for the apprehension of such person, or if such like information be given to any justice of the peace in said county, said justice may issue a warrant for the apprehension of said person, making said complaint and warrant returnable to the county court of said county, and said county judge in either event shall fix a time and place for the hearing and determination of the matter, either in term time or in vacation, which place shall be either at the courthouse of the county, or at the residence of the person named, or at any other place in the county, as the county judge may deem best for such hearing. Notice of the time, place and purpose of such hearing shall be served upon the person charged, such notice to be under the hand and seal of the county clerk of said county, and served and returned by the sheriff or a constable of such county, and the return to state the time and place of service. Such notice shall be served not less than three days prior to the day of hearing.

Sec. 2. The warrant provided for herein shall run in the name of "The State of Texas," and shall be directed to the sheriff or any constable of the county, and the officer receiving same shall forthwith take into custody the person named therein, and at the designated time and place shall have him and the return of said warrant before the county judge for examination and trial.

Sec. 3. At the time of issuing the warrant mentioned in the preceding sections, or upon receipt of the complaint from the justice of the peace, the county judge shall issue an order to the sheriff or any constable directing him to summon a jury of six competent jurors of the county to be and appear before such judge at the time and place designated in said order for the purpose of hearing and determining the issues to be submitted in said matter.

Sec. 4. Upon the filing in the county court in which a person was convicted or in the county court of the county in which a person is

located at the time he is alleged to have had his right mind restored, information in writing and under oath made by a physician legally licensed to practice medicine in Texas, that a person not charged with a criminal offense, who has been adjudged to be of unsound mind, has been restored to his right mind, the judge of said court shall forthwith, either in term time or vacation, order said person brought before him by the sheriff of the county and if said issue be in doubt said judge shall cause a jury to be summoned and impaneled in the same manner as is provided for in Section 3 hereof and shall proceed to the trial of said issue, or if there appears no doubt as to said issue, said judge may try the same without the intervention of a jury, and if said person shall be found to be of sound mind, a judgment shall be entered upon the minutes of said court reciting and adjudging such fact and said person shall, if then under restraint, be immediately discharged, or in the event he shall be found to be still of unsound mind, he shall be returned by the county court to the place of restraint from which he had been previously ordered, and the original order of commitment shall continue in full force and effect. All costs of proceedings of restoration shall be paid by the county.

Sec. 5. This Act shall be cumulative of Articles 5550 to 5561 inclusive of Title 92, Revised Civil Statutes of the State of Texas, 1925 revision.

Sec. 6. All actions, proceedings, judgments and orders made and entered by any probate or county court of this state pursuant to which any person has been adjudged insane and committed to a state hospital for the insane, are hereby validated and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Sec. 7. A contract valid on its face, made with, or likewise a conveyance made by a person, who at the time has not been legally adjudged to be of unsound mind, or otherwise incompetent, and who is subsequently shown to have been insane, or otherwise incompetent, at the time of the execution of such contract or conveyance, shall not be

set aside or avoided where any such contract or conveyance has been executed in good faith in whole or in part, and was entered into in good faith and without fraud or imposition and for a valuable consideration, without notice of such infirmity, unless the parties to such contract or conveyance shall have been first equitably restored to their original position. The provisions of this Article shall not apply in cases where one of the parties to any such contract or conveyance is insane, and has been so adjudged by a court of competent jurisdiction prior to the date of such contract or conveyance.

Sec. 8. This Act shall not affect any proceedings or action pending in any court, of competent jurisdiction, on the effective date hereof and any such pending proceedings or action shall be determined in accordance with pre-existing law.

Sec. 9. In the event any section, subdivision, paragraph, or sentence of this Act shall be declared unconstitutional or void, the validity of the remainder of this Act shall not be affected thereby; and it is hereby declared to be the policy and intent of the legislature to enact the valid portions of this Act, notwithstanding any invalid portions.

Sec. 10. The importance of this legislation and the crowded condition of the calendar, as well as the fact that existing law is inadequate and many titles are now clouded owing to the absence of any law which will protect innocent purchasers or give them any relief, either legal or equitable, before and after an adjudication of insanity, create an emergency and an imperative public necessity, that the Constitutional Rule requiring bills to be read on three several days in each house be suspended and said rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the report be adopted?

Senator Burns moved that the report be rejected and the differences between the two Houses on the bill be recommitted to another conference committee, with instructions to delete Section 7 of the bill, and that the House be requested to recommit

the report to a newly appointed conference committee.

Yeas and nays were demanded and the motion of Senator Burns was lost by the following vote:

Yeas—8.

Aikin	Oneal
Beck.	Pace
Burns	Shivers
Moore	Sulak

Nays—14.

Brownlee	Small
Collie	Spears
Cotten	Stone
Head	Van Zandt
Holbrook	Westerfeld
Isbell	Winfield
Nelson	Woodruff

Absent.

Hill	Redditt
Lemens	Roberts
Neal	Weinert
Rawlings	

Absent—Excused.

Davis	Newton
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The report was adopted by the following vote:

Yeas—13.

Brownlee	Spears
Collie	Stone
Head	Van Zandt
Holbrook	Westerfeld
Isbell	Winfield
Nelson	Woodruff
Small	

Nays—11.

Aikin	Pace
Beck	Roberts
Burns	Shivers
Cotten	Sulak
Moore	Weinert
Oneal	

Present—Not Voting.

Neal
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Absent.

Hill	Rawlings
Lemens	Redditt

Absent—Excused.

Davis	Newton
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**Message From the Governor.**

The President laid before the Senate and had read, the following message from the Governor:

Austin, Texas, May 21, 1937.

To the Members of the 45th Legislature:

I have approved, signed and filed House Bill 397, which consists of two several items of appropriation for the establishment of hospitals for the care of the insane, in so far as Section 1 of said bill appropriates \$817,000.00 and authorizes the buildings, improvements and expenses incurred in securing the land for the site of a hospital to be located west of the 100th meridian; and I have disapproved and vetoed that portion of said bill contained in Sections 2 and 3 carrying an appropriation and authority for the buildings and improvements and expenses incurred in securing the land for the site of a hospital to be located east of the 96th meridian, the second appropriation item in said bill.

In filing this bill with the Secretary of State, pursuant to the Constitution, I appended to same at the time of filing it a statement of the items to which I object; again, pursuant to the Constitution, I am herewith transmitting to the House of Representatives, in which the bill originated, a copy of such statement and the items I objected to.

The statement and item objected to follow:

"My reasons for disapproving and vetoing this item of \$817,000.00 carrying with it the authority to build and establish a hospital for the insane to be located east of the 96th meridian, the second appropriation in said bill, are as follows:

"In my message to the Legislature dated January 25, 1937, I pointed out that the Board of Control had recommended the establishment of a new hospital for the insane in West Texas to cost approximately \$817,000.00. I adopted this recommendation of the Board, and myself recommended the establishment of this hospital. Up to that time no representative of either west or east Texas had conferred with me about it. I simply acted upon the recommendation of the Board of Control and their finding that this hospital was necessary and desirable.

"No member of the Legislature, or representative of east Texas, discussed any proposed hospital in east Texas until after an amendment to this effect had been adopted in the State Senate. When the matter went into free conference a number of the members of the Legislature did discuss it with me. I was advised that the Legislature was unwilling to appropriate money for two hospitals at this time in view of the depleted condition of the treasury and the fact no tax revenues had been raised. An overwhelming majority felt we did need one hospital and that this should be established to serve a vast area in west Texas not being served at the present time and to relieve congestions in other institutions.

"I am, myself, of the opinion that we cannot afford to build two hospitals at this time. I think one hospital, with the additions which have been authorized at existing institutions, are sufficient to meet our present and early future needs. Many members of the Legislature voted for the passage of this bill because it was commonly understood that I would not approve the building of two hospitals at this time."

For the reasons stated, I have approved the bill as to an appropriation carrying authority for a hospital west of the 100th meridian, and disapproved and vetoed the item and appropriation of \$817,000.00 carrying with it the authority for the establishment of a hospital east of the 96th meridian.

Respectfully,

JAMES V. ALLRED,  
Governor of Texas.

**Free Conference Committee on House Bill No. 207.**

Senator Nelson moved that the request of the House for a free conference committee to adjust the differences between the two Houses on H. B. No. 207 be granted.

The motion prevailed.

Accordingly, the President announced the appointment of the following conferees on the bill on the part of the Senate:

Senators Nelson, Aikin, Westerfeld, Moore and Oneal.

**Report of Conference Committee on  
Senate Bill No. 499.**

Senator Woodruff submitted the following report of the Conference Committee on S. B. No. 499:

Committee Room,  
Austin, Texas, May 20, 1937.

Hon. Walter F. Woodul, President of  
the Senate;

Hon. R. W. Calvert, Speaker of the  
House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the two Houses on S. B. No. 499, beg leave to report that we have had same under consideration, and recommend that it do pass in the form and text attached hereto:

Respectfully submitted,

SULAK,  
WESTERFELD,  
COLLIE,  
WOODRUFF,  
BROWNLEE,

On the part of the Senate.

McCONNELL,  
HYDER,  
RIDDLE,  
NEWTON,  
BELL,

On the part of the House.

By Woodruff, S. B. No. 499.

**A BILL**

**To Be Entitled**

An Act to provide for a more adequate and equitable salary of County Superintendents of Public Instruction in all those counties of the State of Texas coming within the brackets and population figures herein named; providing for traveling expenses and/or office expenses for said officers; and repealing all laws and parts of laws in conflict herewith and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. In all counties of the State of Texas having a population of not less than Thirty-two Thousand Eight Hundred (32,800) and not more than Thirty-two Thousand Eight Hundred Thirty (32,830), and in all counties having a population of not less than Twenty-four Thousand (24,000) and not more than Twenty-four Thousand Sixty-three (24,063), and in all counties having a population of not less than Thirty-seven Thousand Nine Hundred

(37,900) and not more than Thirty-seven Thousand Nine Hundred Fifty (37,950), and in counties having a population of not less than Twenty-seven Thousand Four Hundred Twenty-five (27,425) and not more than Twenty-seven Thousand Four Hundred Sixty (27,460), and in counties having a population of not less than Thirty-one Thousand Three Hundred Twenty-five (31,325) and not more than Thirty-one Thousand Four Hundred Twenty-five (31,425), and in counties having a population of not less than Forty-eight Thousand Five Hundred (48,500) and not more than Forty-eight Thousand Five Hundred Seventy-five (48,575), and in counties having a population of not less than Eleven Thousand Four Hundred (11,400) and not more than Eleven Thousand Five Hundred (11,500), and in counties having a population of not less than Seventeen Thousand Seven Hundred Sixty (17,760) and not more than Seventeen Thousand Seven Hundred Eighty (17,780), the salary of the County Superintendent of Public Instruction shall be not less than Two Thousand Seven Hundred Fifty Dollars (\$2,750.00) and not more than Three Thousand Dollars (\$3,000.00) per annum, the amount of which salary shall be fixed by the order of the County Board of Education for the respective Counties, and the County Board of Education for each of the counties coming within this bill shall by order entered in its minutes set the salary for each of their respective counties.

Sec. 2. In making the annual per capita apportionment to the public free schools, the County Board of Education of each of the several counties mentioned in Section 1 of this Act shall also make an annual allowance out of the State and County available School Fund not exceeding the sum of Three Thousand Dollars (\$3,000) for the salary of the County Superintendent of Public Instruction and Six Hundred Dollars (\$600.00) for traveling expenses incidental to and necessary in the administration of the County Superintendent's office annually, and the same shall be prorated to the schools in said county in proportion to the scholastic population of each school district in each of said respective counties, and the Commissioners' Court of each of said counties may expend out of the General Fund of

said counties not to exceed Three Hundred Dollars (\$300.00) per annum to defray the office expenses for stamps, stationery, telephone, and printing, incidental to and necessary in the efficient administration of the schools of said counties respectively.

Sec. 3. In all counties of the state of Texas having a population of not less than 16,550 nor more than 16,600 according to the last United States Federal Census, the salary of the County Superintendent of Public Instruction shall be fixed by order of the County Board of Education in and for such counties at an amount not less than Eighteen Hundred (\$1800.) Dollars per year nor more than Two Thousand Two Hundred and Fifty Dollars (\$2,250.00) per year, and said salary shall be exclusive of any and all traveling expenses allowed by law; and in all counties having a population of not less than Seventeen Thousand Five Hundred Sixty-five (17,565) nor more than Seventeen Thousand Six Hundred (17,600) according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be fixed by order of the County Board of Education in and for such counties at an amount not less than Nineteen Hundred (\$1900.00) Dollars per year nor more than Two Thousand Two Hundred and Fifty Dollars (\$2,250.) per year, and said salary shall be exclusive of any and all traveling expenses allowed by law.

Sec. 4. The salary and traveling expenses provided for herein shall be paid monthly, upon the order of the County Board of Education; provided that the salary for the month of September shall not be paid until the said County Superintendent submits a certificate from the State Superintendent of Public Instruction showing that all reports required have been made to the State Department of Education. That the office expenses provided herein shall be paid by the County Treasurer on the order of the Commissioners' Court as said expenses may be incurred.

Sec. 5. All laws or parts of laws heretofore enacted which are in conflict herewith, are hereby repealed.

Sec. 6. The fact that the County Superintendent of Public Instruction in each of the several counties named in this Act have numerous teachers and school districts that require

much travel in the performance of the duties incumbent upon the office of the County Superintendent to execute efficiently a progressive school program in each of said counties, renders the said salary and expense allowances inadequate and out of proportion to the labor and responsibility attached to each of said offices, and creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be, and it is, hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The report was adopted by the following vote:

**Yeas—23.**

Aikin	Oneal
Beck	Pace
Brownlee	Shivers
Burns.	Small
Collie	Spears
Cotten	Sulak
Head	Van Zandt
Holbrook	Weinert
Isbell	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

**Absent.**

Hill	Redditt
Lemens	Roberts
Rawlings	Stone

**Absent—Excused.**

Davis	Newton
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**Report of Conference Committee on Senate Bill No. 195.**

Senator Woodruff submitted the following report of the Conference Committee on S. B. No. 195:

Austin, Texas, May 21, 1937.

Hon. Walter F. Woodul, President of the Senate;

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sirs: We, your committee, appointed to adjust the differences between the House and the Senate on S. B. No. 195, a bill to be entitled "An Act providing for the inclusion of the bonds of certain road districts in counties with a population of not less than nineteen thousand (19,000) and not more than nineteen thousand five hundred (19,500), according to the next preceding Federal

census, in the program of payments by the Board of County and Road District Indebtedness," have had the same under consideration and beg leave to report same back to the Senate and the House of Representatives that the bill be finally passed in the form attached hereto.

WOODRUFF,

AIKIN,

NEAL,

On the part of the Senate.

JONES of Wise,

ALSUP,

BRADBURY,

JONES of Angelina,

MORRIS,

On the part of the House.

#### A BILL

#### To Be Entitled

An Act providing that all bonds which have been heretofore issued, and sold by road districts, prior to September 17, 1932, in counties having a population of not less than nineteen thousand (19,000) and not more than nineteen thousand five hundred (19,500) according to the 1930 Federal Census, the proceeds of the sale of which bonds have been expended in whole or in part upon a highway which has, since the issuance and sale of said bonds, been designated as a part of the state highway system, and where the proceeds of the sale of said bonds have been expended, in whole or in part, upon a highway, heretofore designated as a part of the state highway system where not more than twelve (12) miles of such highway lies within the road district issuing said bonds, shall be entitled to participate in the state highway funds, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and amendments thereto, as well as re-enactments thereof, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That all bonds which have been heretofore issued and sold by road districts in counties with a population of not less than nineteen thousand (19,000) and not more than nineteen thousand five hundred (19,500), according to the next pre-

ceding Federal census, where the proceeds of the sale of the bonds have been expended in whole or in part upon a highway which was then a part of the designated system of state highways in Texas, and a part of the proceeds of which has been expended, in whole or in part, upon a highway which has, since the issuance and sale of said bonds, been designated as a part of the state highway system of Texas, and where such designated parts of the state highway system bear different highway numbers, or where one designation is numbered and the other un-numbered, shall be entitled to participate in the state highway fund, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and any amendments thereto, including the re-enactment and extension thereof under and by virtue of the terms and provisions of H. B. No. 463, enacted by the Legislature of Texas Forty-fifth Regular Session, 1937.

The Board of County and Road District indebtedness is directed to audit all expenditures of the aforementioned district, and the assumption herein provided for shall extend only to such bonds, the proceeds of which were expended in the construction of the road which has subsequently been designated a State Highway.

Sec. 2. The fact that there is no adequate law covering the subject matter of this bill, that at the time of the creation of certain road district or districts of this state and the issuance and sale of its or their bonds it was contemplated that the proceeds of the sale of such bonds should be expended in the construction of parts of two public highways, one designated and one to be designated, and the further fact that the taxes necessary to be levied and collected in said districts places an undue burden upon the property taxpayers thereof, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be, and the same is, hereby suspended, and this act shall take effect and be in force from and after its enactment.

On motion of Senator Woodruff the report was adopted.

**Senate Bill No. 196 with House Amendments.**

Senator Beck called up S. B. No. 196 from the President's table for consideration of the House amendments to the bill.

The President laid the bill before the Senate, and the House amendments were read.

On motion of Senator Beck, the Senate concurred in the House amendments.

**Report of Conference Committee on House Bill No. 557.**

Senator Neal submitted the following report of the Conference Committee on H. B. No. 557:

Austin, Texas, May 20, 1937.

Hon. Walter F. Woodul, President of the Senate.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the House and Senate on H. B. No. 557, beg leave to report that we have considered the same and recommend that it do pass in the form and text attached hereto.

NEAL,  
BURNS,  
SULAK,  
WESTERFELD,

On the part of the Senate.

CELAYA,  
RAGSDALE,  
VALE,  
LEYENDECKER,  
LEONARD,

On the part of the House.

By Celaya, et al. H. B. No. 557.

**A BILL****To Be Entitled**

An Act providing for the licensing of all persons before engaging in the business of handling perishable agricultural commodities as defined in this Act, whether as a commission merchant, dealer, broker, or as agent of any commission merchant, dealer, or broker; defining certain terms as used herein; providing manner of settlement by licensees with producer, seller, or owner; providing that all contracts between dealers and owners, sellers, or producers, shall be in writing and providing time and manner of set-

tlement; making it unlawful for any person to engage in business as a commission merchant, dealer, broker, or as an agent of any commission merchant, dealer, or broker without first complying with the terms and provisions of this Act; prescribing the duties of the commissioner under this Act; providing for applications for licenses under this Act and for the contents thereof; providing for license fees to be paid by licensees under this Act and for the granting of licenses and the duration thereof; providing for the cancellation of licenses for violation of this Act; providing for the depositing of license fees with the State Treasurer in a special fund to be known as the Agricultural Protective Act Fund and providing the purpose for which such funds may be used; providing for the investigation and filing of complaints by the commissioner and/or his agents against violators of this Act; providing for the holding of hearings by the commissioner on such complaints and for the commissioner's powers and authority in connection with such hearing; providing for cancellation or suspension of licenses and providing for appeal to Courts of competent jurisdiction for the revision of any order entered by the Commissioner; providing for accurate records of accounts to be kept and furnished by licensees under this Act to consignors, producers, and/or their agents; providing for the powers and authority of the commissioner in all matters pertaining to violations of the provisions of this Act; fixing penalties for violators of this Act; providing for bonding licensees under this Act and for fixing the amount of said bond and the terms, conditions, and requirements thereof; providing for recovery on said bonds in the event of violation thereof under this Act and fixing the venue of all suits arising thereunder; providing for exemption of retailers as defined in this Act; providing for the exemption of cooperative organizations as defined herein from the terms of this Act; providing for the exemption of persons buying farm products for the purpose of reselling the same

in dried, canned, or other preserved form; providing for the exemption from the provisions of this Act of all growers who handle and market their own fruit individually; providing that it shall be the duty of the commissioner, his agents, and employees to assist in the apprehension and punishment of violators of this Act; providing for the regulation of buying, selling, and handling perishable agricultural commodities to prevent unfair trade practices and in a manner which will assure the protection of producers and licensees as herein defined; providing that it shall be unlawful for any person to engage in the business of handling farm products within this State unless and until such person has fully complied with the provisions of this Act; making the provisions of the Act pertaining to necessity for license and license fees applicable only to the Texas Citrus Zone as defined in Section 1 of House Bill No. 553, Chapter 350, Acts Forty-second Legislature; providing that this Act shall not amend or modify, or in any way repeal the Anti-Trust Laws of this state; and providing that this Act shall not apply to truckers paying cash for such commodities; and providing that the administration of the terms and conditions of this Act shall be under the direction and supervision of the Chief or Director of the Markets and Warehouse Division of the Department of Agriculture; and providing that H. B. No. 99, as passed by the Forty-fifth Legislature shall be amended so as to place the administration and supervision of said H. B. No. 99 under the direction and supervision of the Chief or Director of the Markets and Warehouse Division of the Department of Agriculture, for the term of office and at a salary fixed by the terms of this Act; and providing that the Chief or Director of the Markets and Warehouse Division of the Department of Agriculture shall be appointed by the Commissioner of Agriculture for a term of office of six years from and after the effective date of this Act, at a salary of Four Hundred & no/100 (\$400) dollars per month, and providing for the ap-

pointment of necessary assistants, inspectors and other personnel, and providing for payment of salaries, travelling and other incidental expenses; providing for the validity of remainder of this Act if any portion of the same be declared unconstitutional; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. General Provisions. 1. This Act shall be known and may be cited as the Agricultural Protective Act.

2. As used in this Act, unless otherwise apparent from the context:

(a) The present tense includes the past and future tenses; and the future, the present.

(b) The masculine gender includes the feminine and neuter.

(c) The singular number includes the plural, and the plural, the singular.

(d) "Department" means the Department of Agriculture of the State of Texas.

(e) "Commissioner" means the Commissioner of Agriculture of the State of Texas.

(f) "Section" means the Section of this Act unless some other Act is specifically mentioned.

(g) "County" includes city and county.

(h) "Person" includes individual, partnership, firm, corporation company or association.

(i) "Sell" includes "offer for sale," "expose for sale," "have in possession for sale," "exchange," "barter," or "trade."

3. Any person in whom the enforcement of any provision of this Act is invested has the power of a peace officer as to such enforcement.

4. The District or County Attorney of any county in which a violation of any provision of this Act occurs shall, upon request of any enforcing officer or other interested person, prosecute such violation.

5. Unless a different penalty is expressly provided, a violation of any provision of this Act is a misdemeanor.

6. Whenever any notice, report, statement, or record is required by this Act, it shall be in writing unless it is expressly provided that it may be oral.

7. Whenever any notice, report

statement or record is required by this Act to be kept or made in writing it shall be in the English language.

8. Whenever any power or authority is given, by any provision of this Act to any person, it may be exercised by any deputy, inspector, or agent duly authorized by him unless it is expressly provided that it shall be exercised in person.

9. As used in this Act the word "shall" is mandatory and the word "may" is permissive.

10. The commissioner may enter upon any premises to inspect the same or any plant, appliance or thing therein.

11. The commissioner is hereby authorized to promulgate and adopt rules and regulations for carrying out those provisions of this Act which he is directed and authorized to administer or enforce.

Sec. 2. Produce Dealers. (a) As used in this Act the term "person" includes any individual, firm, partnership, corporation or association of persons.

(b) The term "producer" means any person engaged in the business of growing or producing any farm product.

(c) The word "vegetables" and/or the words "agricultural commodities" and/or the words "farm products," when used in this Act shall mean any and/or all of the following enumerated commodities: Asparagus, Beans (string, wax, or green), Beets (bunched or topped), Broccoli (Italian sprouting), Cabbage (for sauerkraut), Cantaloupes, Carrots (bunched or clipped), Cauliflower, Celery (rough), Corn (green), Cucumbers (slicing), Dewberries and Blackberries, Eggplant, Endive or Escarole or Chicory, Garlic, Kale, Lettuce, Melons (Honey Ball and Honey Dew), Mustard Greens, Okra, Onions, Parsley, Peaches, Pears, Peas (fresh), Peppers (sweet), Potatoes, Potatoes (sweet), Radishes, Romaine, Shallots, Spinach, Strawberries, Tomatoes (fresh), Turnips (bunched or topped), or Rutabagas, Turnip Greens, and Watermelons.

(d) The term "consignor" includes any person who delivers to any commission merchant, dealer, or broker or the agent of any commission merchant, dealer, or broker any

farm products for handling, sale, or resale.

(e) The term "commission merchant" means any person who shall receive on consignment or solicit from the producers thereof any farm product within the terms of this Act for sale on commission on behalf of this producer, or who shall accept any farm product in trust from the producer thereof for the purpose of resale, or who shall sell or offer for sale on commission any farm product, or who shall in any way handle for the account of, or as an agent of, the producer thereof any farm product.

(f) The term "dealer" means any person other than a commission merchant who for the purpose of resale at wholesale obtains from the producer thereof possession or control of any farm product, except by payment to the producer, at the time of obtaining such possession or control, of the full agreed price of such commodity.

(g) The term "broker" means any person engaged in the business of soliciting or negotiating the sale of any farm product.

(h) The term "agent" means any person who on behalf of any commission merchant, or dealer, or broker receives, contracts for, or solicits any farm product from a producer thereof or who negotiates the consignment or purchase of any farm product on behalf of any commission merchant, dealer, or broker.

(i) The term "commissioner" means the Commissioner of Agriculture of the State of Texas.

Sec. 3. Exclusions. This Act does not apply to or include:

(a) Any co-operative organization, operating under and by virtue of the Laws of this State, or of any other State, or the District of Columbia, or the United States, or the agents of such organizations in the performance of their duties as such, except as to that portion of the activities of such organization, or agent as involves the handling or dealing in the farm products of nonmembers of such organization.

(b) Any person or exchange buying farm products for the purpose of reselling the same in dried, canned, or other preserved form.

(c) Any person who is engaged in the business of selling farm products

as a retailer. It is expressly provided that any individual, partnership, corporation, company, or association of persons which is engaged in the business as a buying agency for more than three retail outlets is not a retailer within the purview of this Act. A retailer within the meaning of this Act is any person who purchases farm products in small quantities for resale to the consumer.

Sec: 4. Licensing. No person shall act as a commission merchant dealer, broker, or agent without having obtained a license as provided in this Act. Every person acting as a commission merchant, dealer, broker, or agent as herein defined, shall file an application with the commissioner for a license to transact the business of commission merchant, dealer, broker, and/or agent and such application shall be accompanied by the license fee herein provided for each specified class of business. Separate application shall be filed for each class of business.

Such application shall in each case state the full name of the person applying for such license, and if the applicant be a firm, partnership, corporation, or association of persons, the full name of each member of such firm, or the names of the officers of such corporation or association or company shall be given in the application. Such application shall further state the principal business address of the applicant in the State of Texas and elsewhere and the name or names of the person or persons authorized to receive and accept service of citation and legal notice of all kinds for the applicant. Such applicant shall further satisfy the commissioner of his or its character, responsibility, and good faith in seeking to carry on the business stated in the application in the manner and form to be provided by the commissioner.

In addition to the general requirements applicable to all classes of applications as in this Section set forth, the following requirements shall apply to the class of application noted:

(1). Commission merchants: Each application shall include a schedule of commissions and charges for services, and such designated commissions and charges shall not be changed nor verified for the license

period, except by written contract between the parties.

(2) Agents: Each application shall include such information as the commissioner may consider proper or necessary, and shall include the name and address of applicant and the name and address of each commission merchant, dealer, or broker represented or sought to be represented by said agent, and the written endorsement or nomination of such commission merchant, dealer, or broker. The commissioner shall thereupon issue to such applicant a license entitling the applicant to conduct the business described in the application at the place named in the application for a year from the date thereof, or until the same shall have been revoked for cause. The commissioner may also issue to each agent a card, or cards, which shall bear the signature of such agent and his principals, separate cards being required for each principal. Any agent shall show said card or cards upon the request of any interested person. Fraud or misrepresentation in making any application shall ipso facto work a revocation of any license granted thereunder. All indicia of the possession of a license shall be at all times the property of the State of Texas and each licensee shall be entitled to the possession thereof only for the duration of said license.

For filing the application herein described, each applicant must pay a fee as follows:

(a). Commission merchants: \$25.00 each year.

(b). Dealers: \$25.00 for each year.

(c). Brokers: \$25.00 for each year.

(d). Agents: \$1.00 for each year.

Any person who shall have been licensed as a commission merchant, shall, upon application, be licensed also as a dealer and/or as a broker as defined herein without payment of further fees, and shall hereupon conform to the parts of this Act regulating the business of a dealer and/or broker. Any person who has applied for and receives a license as a dealer or broker in the manner and upon payment of the fee herein set forth may apply for and secure a license as a commission merchant in addition to the license issued to him as such dealer or broker, with-



out payment of further fee and upon further complying with those parts of this Chapter regulating the licensing of a commission merchant.

The Commissioner shall publish in pamphlet form at least once each calendar year and may publish as often as he thinks necessary a list of all licensed commission merchants, dealers, brokers, and agents, together with all necessary rules and regulations concerning the enforcement of this Act. Each licensed commission merchant, dealer, broker, or agent shall post his license, or a copy thereof, in his office or place of business in plain view of the public. All license fees collected under the provisions of this Act shall be paid into the State Treasury and shall be kept by the State Treasurer in a separate fund to be known as the Agricultural Protective Act Fund and the same shall be expended in carrying out the provisions of this Act.

Sec. 5. Bonding. Before any license is issued to any commission merchant, dealer, or broker, such commission merchant, dealer or broker shall execute and deliver to the commissioner a surety bond in the sum of Five Thousand Dollars (\$5,000), executed by the applicant as principal and by a surety company qualified and authorized to do business in this State as surety. Said bond shall be conditioned upon compliance with the provisions of this Act and upon the faithful and honest handling of farm products in accordance with the terms of this Act. Said bond shall be to the State in favor of every consignor or producer of farm products. Any consignor or producer of farm products claiming to be injured by the fraud, deceit, or wilful negligence of any commission merchant, dealer, or broker, may bring action upon said bond against both principal and surety in any Court of competent jurisdiction to recover the damages caused by such fraud, deceit, or wilful negligence, or the failure to comply with the provisions of this Act. Any case of failure by a commission merchant, dealer, or broker to pay consignor, or producer creditors for farm products received from said consignor, or producer to be sold, the commissioner shall proceed forthwith to ascertain the names and addresses of all consignors, or pro-

ducer creditors of such commission merchant, dealer, or broker, together with the amounts due and owing to them and each of them by such commission merchant, dealer, or broker and shall request all such producer, or consignor creditors to file a verified statement of their respective claims with the commissioner. Thereupon the commissioner shall bring an action on the bond in behalf of such producer, or consignor creditors. Upon any action being commenced on said bond, the commissioner may require the filing of a new bond and immediately upon the recovery in any action upon such bond such commission merchant, dealer, or broker shall file a new bond and upon failure to file the same within ten (10) days in either case, such failure shall constitute grounds for the suspension or revocation of his license.

Sec. 6. Enforcement. For the purpose of enforcing the provisions of this Act the commissioner is authorized to receive verified complaints against any person assuming or attempting to act as such, and upon receipt of such verified complaint, shall have full authority to make any and all necessary investigations relative to the said complaint. He shall have at all times free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities in which any produce is kept, stored, handled, or transported. He shall have full authority to administer oaths and to take testimony thereunder; to issue subpoenas requiring the attendance of witnesses before him, together with all books, memoranda, papers, and other documents, articles, or instruments; to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation, and all parties disobeying the orders or subpoenas of said commissioner shall be guilty of contempt and shall be certified to a Court of competent jurisdiction for punishment for such contempt; copies of records, inspection certificates, certified reports, and all papers on file in the office of the commissioner shall be prima facie evidence of the matters therein contained.

The commissioner of his own motion may, or upon the verified complaint of any interested person shall

investigate, examine, or inspect any transaction involving solicitation, receipt, sale, or attempted sale of farm products by any person or persons acting or assuming to act as a commission merchant, dealer, broker, or agent; failure to make proper and true account of sales and settlement thereof as in this Act required; the intentional making of false statement as to condition and quantity of any farm products received, or in storage; the intentional making of false statements as to marketing conditions; the failure to make payment for farm products within the time required by this Act; or investigate, examine, or inspect any and all other injurious transactions, and in furtherance of any such investigation, examination, or inspection, the commissioner or any authorized representative may examine that portion of the ledgers, books, accounts, memoranda, and other documents, farm products, scales, measures, and other articles and things used in connection with the business of such person relating to the transactions involved. When a producer or consignor of farm products fails to obtain settlement satisfactory to him in any transaction after having notified the consignee, a verified complaint may be filed with the commissioner who shall undertake to effect a settlement, and in the event that he shall fail to effect such settlement, he shall cause a copy of such complaint, together with a notice of the time and place and hearing of such complaint, to be served personally or by mail upon such person. Such service shall be made at least ten (10) days before the hearing, which shall be held in the city or town in which, or closest to which, is situated the business location of the licensee or in which the transaction complained of is said to have occurred. At the time and place appointed for such hearing, the commissioner, or his agents, shall hear the parties to such complaint and shall enter a decision either dismissing such complaint or specifying the facts established on such hearing. A copy of such decision shall be furnished each, every, and all the respective parties thereto.

The commissioner may refuse to grant a license and may revoke or suspend any license, as the same may require, when he is satisfied of

the existence of any of the following facts:

(1). That fraudulent charges or returns have been made by the applicant, or licensee, for the handling, sale, or storage of, or for the rendering of any service in connection with the handling, sale, or storage of any farm products.

(2). That the applicant or licensee has failed or refused to render a true account of sale, or to make a settlement thereon, or to pay for farm products received within the time and in the manner required by this Act.

(3). That the applicant, or licensee, directly or indirectly, has purchased for his or its own account farm products received by him upon consignment without prior authority from consignor, or producer, together with price fixed by consignor, or producer, or without promptly notifying the consignor or producer of such purchase. This shall not prevent any commission merchant from checking the account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant shall forthwith enter such transaction on his account of sales.

(4). That the applicant, or licensee, has individually made any false or misleading statements as to the condition of the market for any farm products.

(5). That the applicant, or licensee, has made fictitious sales or has been guilty of collusion to defraud the producer or consignor.

(6). That a commission merchant to whom any consignment is made has reconsigned to another commission merchant, for the purpose of receiving, collecting, or charging by such means, more than one commission for making the sale thereof for the consignor, unless by consent of such consignor.

(7). That the licensee, or applicant, has failed or refused to file with the commissioner a schedule of his charges for services in connection with produce handled on account of or as an agent of another; that the applicant, or licensee, has indulged in any unfair practice.

Previous violation by the applicant or by any person connected with him, or it, of any of the provisions of this

Chapter shall be good and sufficient ground for denial of a license.

Any action of the commissioner with reference to the granting of, or the refusal to grant, or to renew any license, or with reference to the revocation or suspension of any license granted under the provisions of this Chapter may be reviewed by any Court of competent jurisdiction, but pending final determination of any such review, in the case of the revocation or suspension of any person licensed hereunder, such license shall be deemed in full force and effect pending the expiration of the license period or the final determination of such proceeding, whichever is first in point of time.

Every commission merchant, dealer, or broker having received any farm products for sale as such commission merchant, dealer, or broker, shall promptly make and keep a correct record showing in detail the following with reference to the handling, sale, or storage of such farm products.

(a). Name and address of the consignor.

(b). The date received.

(c). The condition and quantity upon arrival.

(d). Date of such sale for account of consignor.

(e). The price for which sold.

(f). An itemized statement of the charges to be paid by consignor in connection with the sale.

(g). The names and addresses of the purchasers if said commission merchant has any financial interest in the business of said purchasers, or if paid purchasers have any financial interest in the business of said commission merchant, directly or indirectly, as holder of the other's corporate stock, as co-partner, as lender or borrower of money to or from the other, or otherwise.

(h). A lot number or other identifying mark for each consignment shall be or shall appear on all sales tags or other essential records needed to show what the produce actually sold for.

(i). Any claim or claims which may have been or may be filed by the commission merchant, dealer, or broker against any person for overcharges or for damages resulting from the injury or deterioration of such farm products by the act, neg-

ligence, or failure of such person and such records shall be open to the inspection of the commissioner and the consignor of farm products in whom such claim or claims are made.

When requested by his consignor, a commission merchant, dealer, or broker shall, before the close of the next business day following the sale of any farm products consigned to him, transmit or deliver to the owner or consignor of the farm products a true written report of such sale, showing the amount sold and the selling price. Remittance in full of the amount realized from such sales, including all collections, overcharges, and damages, less the agreed commission and other charges, together with a complete account of sale, shall be made to the consignor within ten (10) days after receipt of the moneys by commission merchant, dealer, or broker, unless otherwise agreed in writing. In the account, the names and addresses of purchasers need not be given as required except as required in Subdivision (g) of Section 6.

Every commission merchant, dealer, or broker shall retain a copy of all records covering each transaction, for a period of one year from the date thereof, which copy shall at all times be available for, and open to, the confidential inspection of the commissioner and/or the consignor, or authorized representative of either. In the event of any dispute or disagreement between a consignor and a commission merchant arising at the time of delivery as to condition, quality, grade, pack, quantity, or weight of any lot, shipment, or consignment of farm products, the department shall furnish upon the payment of a reasonable fee therefor by the requesting party, a certificate establishing the condition, quality, grade, pack, quantity, or weight of such lot, shipment, or consignment. Such certificate shall be prima facie evidence in all Courts of this State as to the recitals thereof. The burden of proof shall be upon the commission merchant, dealer, or broker to prove the correctness of his accounting as to any transaction which may be questioned.

When any dealer, commission merchant, or broker causes a producer, seller, or owner, or agent of such producer, seller, or owner, to part

with the control or possession of any farm products or vegetable or agricultural commodity, as defined in this Act, by means of any agreement under which such producer, seller, or owner, or agent of such producer, seller, or owner, has waived the right to demand the purchase price as and when he parts with control or possession of such agricultural commodity, the contract for the handling, purchase of, or sale of such agricultural commodity as between the dealer, commission merchant, or broker, and the producer, seller, or owner, or the agent of such producer, seller, or owner, shall be evidenced in writing in duplicate, such writing shall contain the details of such transaction, including the price to be paid by such dealer, commission merchant, or broker, and the time and manner of payment of such price. In the event the contract, or writing, does not specify a time and manner of settlement, then the dealer, commission merchant, or broker shall settle therefor within thirty (30) days from and after the delivery of such agricultural commodity, or commodities, into the control or possession of such dealer, commission merchant, or broker, by producer, seller, or owner, or agent of such producer, seller, or owner, and the dealer, commission merchant, or broker, shall then truly account to and pay over to said producer, seller, or owner, or the agent of such producer, seller, or owner, the full amount called for by such contract or writing, including any minimum price guaranteed by dealer, commission merchant, or broker.

Any sale of farm products made by a commission merchant for less than the current market price with any person with whom he has any financial connection, directly or indirectly, as owner of its corporate stock, as co-partner, or otherwise, or any sale out of which any commission merchant receives directly or indirectly any portion of the purchase price other than the commission provided for under the schedule required to be filed with the commissioner by virtue of the terms of this Act, shall be prima facie evidence of fraud within the meaning of this Act.

Sec. 7. Penalties. Any person is guilty of a misdemeanor and is punishable by a fine of not more than

One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than one year or by both, who assumes or attempts to act as a commission merchant, dealer, broker, or agent without a license, or who, being a commission merchant, dealer, or broker:

(a) Imposes false charges for handling or service in connection with farm products.

(b) Fails or refuses to supply and/or deliver to a producer, seller or owner, or the agent of such producer, seller, or owner, a memoranda or contract in writing in any transaction whereby such producer, seller, or owner, or the agent of such producer, seller, or owner, has waived the right to demand the purchase price as and when such producer, seller, or owner, or the agent of such producer, seller, or owner, parts with the control or possession of any agricultural commodity or commodities, or fails to account promptly, correctly, fully, and properly and to make settlement therefor as herein provided.

(c) Intentionally makes false or misleading statement or statements as to market conditions.

(d) Makes fictitious sales or is guilty of collusion to defraud the producer.

(e) Directly or indirectly purchases for his own account goods received by him upon consignment without prior authority from the consignor, or fails promptly to notify the consignor of such purchases, if any, on his own account. This clause does not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant, dealer, or broker forthwith enters such transaction on his account of sales.

(f) Intentionally makes false statement or statements as to the grade, condition, markings, quality, or quantity of goods received, shipped, or packed in any manner.

(g) Fails to comply in every respect with the terms and provisions of this Act. Civil suits and criminal prosecutions—arising by virtue of any of the provisions of this Chapter may be commenced and tried in either the county in which the products were received by the commission merchant or within the county in

which the principal place of business of the commission merchant is located, or within the county in which the violation of this Chapter occurred.

Sec. 8.—The terms of this Act shall apply only to the Texas Citrus Fruit Zone, as said area is defined in Section 1 of House Bill No. 553, Chapter 230, General Laws of Texas, Regular Session Forty-second Legislature, and shall not apply to any other Section of the State.

Sec. 8a.—Provided, however, nothing in this Act shall alter, repeal, change or modify the anti-trust laws of this State and in the event any Section or Sub-section of this Bill shall conflict with the provisions of the anti-trust laws, either Civil or Criminal, said Section or Sub-section shall fall and the anti-trust laws, both Civil and Criminal, shall stand.

Sec. 8b.—The provisions of this Act shall not apply to any person, firm or corporation paying for such commodities in lawful currency of the United States at the time of purchase.

Sec. 9.—The administration and supervision of the terms and provisions of this Act shall be under the direction of the Chief or Director of the Markets and Warehouse Division of the Department of Agriculture.

Sec. 9a.—Sec. 26 of House Bill No. 99, as passed by Regular Session of the Forty-fifth Legislature, is hereby amended so as to read as follows: Sec. 26.—The administration and supervision and full authority for enforcement of the provisions of House Bill No. 99, as passed by the Regular Session of the Forty-fifth Legislature, shall be under the direction and supervision of the Chief or Director of the Markets and Warehouse Division of the Department of Agriculture.

Sec. 9b.—The Chief or Director of Markets and Warehouse Division of the Department of Agriculture shall hold office for a term of six years from and after the effective date of this Act, and shall not be subject to removal from office during such six year period except for unfaithful performance of the duties of his office, and shall be paid a salary of Four Hundred & no/100 (\$400) dollars per month, at the expiration of which six year period the Commissioner of Agriculture shall appoint a Chief or Director of the Mar-

kets and Warehouse Division for an additional six year period, and such appointment shall thereafter be made each successive six years. The Chief or Director of the Markets and Warehouse Division of the Department of Agriculture is hereby authorized and directed to appoint four assistant directors, two at a salary of \$250.00 per month, and two at a salary of \$200.00 per month, and all necessary field and office inspectors or examiners, at a salary of \$150.00 per month, together with the necessary traveling and office expenses for the use of such director, assistant directors and inspectors or examiners and other necessary personnel. Said assistants and other personnel shall have charge of administering the law enacted by House Bill No. 99 and House Bill No. 557, as passed by the Regular Session of the Forty-fifth Legislature, under the supervision of the Director, together with any other duties over which the Director may have control that may be prescribed by him; such personnel to be in addition to personnel now or hereafter appointed for the administration of the Markets and Warehouse Division of the Department of Agriculture.

Sec. 9c.—The salaries and other expenses of the Chief or Director of Markets and Warehouse Division, and of the Assistants and other personnel shall be paid from any funds derived from the enforcement of House Bill No. 99 and House Bill No. 557, as passed by Regular Session of Forty-fifth Legislature, and from funds derived from the Citrus Inspection fund, the Fruit and Vegetable inspection fund, Fruit and Vegetable Grading fund, Shippers Inspection and/or Grading fund, together with any appropriation hereafter granted said service, or from funds derived from the enforcing of other laws placed under said Director, and from funds derived from Markets and Warehouse Division of Department of Agriculture and any money credited or that may hereafter be credited to any of such accounts or funds above mentioned, or derived from the Acts heretofore mentioned, is hereby appropriated for the purposes heretofore provided by law for the use of these funds and for the purposes herein set out, and shall be a continuing fund for the purpose of paying salaries and other neces-

sary expenses connected with the enforcement of these Acts. An Itemized and sworn account of each item of expense shall be approved by the Director and submitted to the State Comptroller, and the State Comptroller and State Treasurer are hereby authorized and directed to pay such approved accounts and salaries.

Sec. 10. 1. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

2. The fact that agricultural commodities, vegetables, and farm produce, as the terms are defined in this Act, are now being harvested, sold, and shipped and that unless the provisions of this Act can be immediately made available for their protection, the producers, dealers, commission merchants, and brokers of this State will suffer heavy losses, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and it is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The report was adopted by the following vote:

**Yeas—16.**

Beck	Nelson
Brownlee	Pace
Burns	Small
Collie	Spears
Cotten	Van Zandt
Head	Westerfeld
Holbrook	Winfield
Neal	Woodruff

**Nays—4.**

Aikin	Moore
Isbell	Oneal

**Present—Not Voting.**

Roberts	Shivers
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**Absent.**

Hill	Stone
Lemens	Sulak
Rawlings	Weinert
Redditt	

**Absent—Excused.**

Davis	Newton
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**Adoption of Conference Committee Report on Senate Bill No. 179.**

On motion of Senator Head the report of the Free Conference Committee on S. B. No. 179, submitted today, was adopted.

**Report of Conference Committee on House Bill No. 5.**

Senator Small submitted the following report of the Conference Committee on H. B. No. 5:

**Committee Room,**

Austin, Texas, May 21, 1937.

Hon Walter F. Woodul, President of the Senate,

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the House and the Senate on House Bill 5, beg leave to report that we have considered the same and recommend that it do pass in the form and text hereto attached.

SMALL,  
PACE,  
BURNS,

On the part of the Senate.

MORSE,  
HARRIS of Dallas  
MOFFETT,  
WORLEY,  
KEITH,

On the part of the House.

**A BILL**

**To Be Entitled**

An Act defining the term "open saloon" and prohibiting the operation thereof and providing penalties for violations; further regulating the traffic in alcoholic beverages in this State and prescribing penalties for violations thereof; providing for the Liquor Control Board; vesting the Texas Liquor Control Board and its representatives with additional powers to administer the provisions of the Texas Liquor Control Act; pro-

viding for appointment of the Administrator and his salary and duties to be under the direction of the Board; providing for certain issues to be submitted at local option elections; making provision for the contest of local option elections; revising and extending the system of permits and licenses required of persons engaged in various phases of the liquor traffic and the issuance of same; requiring bonds to be filed in support of permits and prescribing certain liabilities and penalties thereon; levying, altering and clarifying fees and taxes heretofore levied, and levied by the provisions of this Act and providing for their collection and allocating such fees and taxes collected; authorizing the issuance of search warrants and otherwise strengthening and extending the powers and duties of peace officers and of agents and representatives of the Board; providing for methods and procedure in appealing from decisions of the Board; defining additional terms used in the Texas Liquor Control Act in this Act; making appropriations; repealing certain laws and parts of laws, including Sections 17, 17a, 20, 22, 23a, and 43 of Article 1 of Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature and by repealing Section 50 of the Texas Liquor Control Act as enacted by House Bill No. 432, Acts of the Regular Session of the Forty-fifth Legislature; amending Sections 3, 3-a, 4, 4 (a), 4 (b), 5, 6, 10, 11, 12, 13, 14, 15, 15a, 16, 19, 21a, 23, 25, 26, 27, 28, 30, 31, 40, 41, 42, 44, 45, 46, 47 and 48 of Article I of Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, and Section 21 of Article I, Chapter 467, Acts Second Called Session Forty-fourth Legislature as amended by Section 3 of Article III, House Bill No. 8, Acts Third Called Session Forty-fourth Legislature; amending Article 1 of Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature by adding thereto new sections to be known as Sections 7 (a), 7 (b), 7 (c), 12 (a), 15 (a), 15 (b), 15 (c), 15 (d), 15 (e), 17, 17 (a), 20,

21 (b), 21 (c), 23 (a), 25 (a), and 41 (a); repealing Sections 1 to 23, both inclusive, of Article II of Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature; adding thereto new sections to be known as Sections 1 to 29, both inclusive; fixing the effective date of this Act and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

#### ARTICLE I.

Section 1. That Section 3 of Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 3 (a). The term 'open saloon' as used in this Act, means any place where any alcoholic beverage whatever, manufactured in whole or in part by means of the process of distillation, or any liquor composed or compounded in part of distilled spirits, is sold or offered for sale for beverage purposes by the drink or in broken or unsealed containers, or any place where any such liquors are sold or offered for sale for human consumption on the premises where sold.

"(b). It shall be unlawful for any person, whether as principal, agent, or employee, to operate or assist in operating, or to be directly or indirectly interested in the operation of any open saloon in this State.

"(c). It shall be unlawful for any person to whom a Wine and Beer Retailer's Permit or Beer Retailer's License has been issued or any officer, agent, servant, or employee thereof to have in his possession on the licensed premises, any distilled spirits or any liquor containing alcohol in excess of fourteen (14) per centum by volume.

"(d). Any person who violates any portion of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than one year. Any person who is twice convicted under the provisions of this Section shall for the second and all subsequent offenses be punished by fine of not less than One Hundred Dollars (\$100)

nor more than One Thousand Dollars (\$1,000), and by confinement in the county jail for not less than thirty (30) days nor more than one year."

Sec. 2. That Section 3-a, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 3-a. The following definitions of words and terms shall apply as used in this Act:

" 'Alcoholic Beverage' shall mean alcohol and any beverage containing more than one-half of one per cent of alcohol by volume which is capable of use for beverage purposes, either alone or when diluted.

" 'Consignment Sale' shall mean the delivery of alcoholic beverages under any agreement, arrangement, condition, or system whereby the person receiving the same has the right at any time to relinquish possession to or return them to the shipper and whereby title to such remains in the shipper. It shall also mean the delivery of alcoholic beverages under any agreement, arrangement, condition, or system whereby the person designated as the receiver merely acts as an intermediary for the shipper or seller and the actual receiver as well as the delivery of alcoholic beverages to a factor or broker or any other method employed by a shipper or seller whereby any person is placed in actual or constructive possession of alcoholic beverages without acquiring title thereto, or any method employed by a shipper or seller whereby any person designated as the purchaser did not in fact purchase the same. It is not intended that this definition shall exclude any other kind of transaction which in law may be construed as a consignment sale.

" 'Distilled Spirits' shall mean alcohol, spirits of wine, whiskey, rum, brandy, gin, and any liquor produced in whole or in part by the process of distillation, including all dilutions and mixtures thereof.

" 'Illicit Beverage' shall mean and refer to any alcoholic beverage manufactured, distributed, bought, sold, bottled, restified, blended, treated, fortified, mixed, processed, warehoused, stored, possessed, imported, or transported in violation of this Act, or on which any tax imposed by the laws of this State has not been paid and the tax stamp affixed there

to; and any alcoholic beverage possessed, kept, stored, owned, or imported with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse store, or transport in violation of the provision of this Act.

" 'Liquor' shall mean any alcoholic beverage containing alcohol in excess of four (4) per centum by weight, unless otherwise indicated. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, tequilla, mescal, habanero or barreteago, shall be prima facie evidence that the same is liquor as herein defined.

" 'Person' shall mean and refer to any natural person or association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them.

" 'Premise' shall mean the grounds as well as all buildings, vehicles, and appurtenances pertaining thereto, and shall also include any adjacent premises, if directly or indirectly under the control of the same person.

" 'Wine and vinous liquor' shall mean the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, and berries.

"Any definition contained herein shall apply to the same word in any form."

Sec. 3. That Section 4, Article 1, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 4. It shall not be unlawful to manufacture, distill, brew, sell, import, export, transport, distribute, warehouse, store, possess, for the purpose of sale, bottle, rectify, blend, treat, fortify, mix, or process any liquor in this State, or to possess any equipment or material designed for or capable of use for manufacturing liquor, provided that the rights or privileges so to do are granted by any provision of this Act. It is further expressly provided that any rights or privileges granted by the provisions of this Section, as exceptions to the prohibited acts in other sections shall be enjoyed and exercised only in the manner as provided. Any act done by any person which is not granted in this Act is hereby declared to be unlawful."



Sec. 4. That Section 4 (a), Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

Sec. 4 (a). It shall be unlawful for any person to manufacture, distill, brew, sell, possess for the purpose of sale, import into this State, export from the State, transport, distribute, warehouse, store, solicit, or take orders for, or for the purpose of sale to bottle, rectify, blend, treat, fortify, mix, or process any liquor in any wet area without first having procured a permit."

Sec. 5. That Section 4 (b), Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 4 (b). It shall be unlawful for any person in any dry area to manufacture, distill, brew, sell, possess for the purpose of sale, import into this State, export from the State, transport, distribute, warehouse, store, solicit or take orders for, or for the purpose of sale to bottle, rectify, blend, treat, fortify, mix, or process any liquor, distilled spirits, whiskey, gin, brandy, wine, rum, beer or ale."

Sec. 5½. That Section 5, Article I, Chapter 467, Acts of the Second Called Session of the Forty-Fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 5. There is hereby created a Board named the Texas Liquor Control Board, consisting of three (3) persons, all of whom shall be appointed by the Governor, by and with the advice and consent of the Senate, and one of whom shall be designated by the Governor to be Chairman of the said Board, and said members shall receive their actual expenses while engaged in the performance of their duties and a per diem of Ten Dollars (\$10) per day for not exceeding sixty (60) days for any one year. Each member at the time of his appointment and qualification shall be a resident of the State of Texas and shall have resided in said State for a period of at least five (5) years next preceding his appointment and qualification, and he also shall be a qualified voter therein. Of the Members initially appointed each shall hold office from the date of his appointment for the following respective terms, and until their re-

spective successors shall qualify:

One member for two (2) years, one for four (4) years, and one for six (6) years from the effective date of the Act. Each member may be initially appointed on or subsequent to the date this Act goes into effect. The Governor, at the time of making and announcing the appointment of said three (3) members, as well as in the commission issued by him to each of them, shall designate which of said members shall serve for each of the said respective terms, and also which shall be the Chairman of the Board. Upon the expiration of each of said terms, the term of office of each member thereafter appointed shall be six (6) years from the time of his appointment and qualification, and until his successor shall qualify. In case any member shall be allowed to hold over after the expiration of his term, his successor shall be appointed for the balance of the unexpired term. Vacancies in said Board shall be filled by the Governor for the unexpired term. Each member shall be eligible for reappointment in the discretion of the Governor.

"No person shall be eligible for appointment, or shall hold the office of member of the Board, or be appointed by the Board, or hold any office or position under the Board, who has any connection with any association, firm, person, or corporation engaged in or conducting any alcoholic liquor business of any kind or who holds stocks or bonds therein, or who has pecuniary interest therein, nor shall any such person receive any commission or profit whatsoever from or have any interest whatsoever in any purchase or sales of any alcoholic liquor. The office of the Board shall be in the City of Austin, Texas. The said Board shall meet at such times within the City of Austin as the Board shall determine, and the members thereof shall be entitled to their reasonable expenses for each meeting so attended, and the per diem hereinabove referred to. A majority of the members shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the Board. The Board shall appoint an Administrator who shall serve at the Board's pleasure and who shall under the supervision of the Board administer the provisions of this Act.

He shall receive a salary of Six Thousand Dollars (\$6,000) per annum, and shall execute a bond in the sum of Ten Thousand Dollars (\$10,000) payable to the State of Texas, conditioned as the Board shall require.

"The Board or Administrator shall appoint all necessary clerks, stenographers, inspectors, and chemists, and other employees to properly enforce the provisions of this Act.

"No person shall be eligible for any appointment who has any financial connection whatever with any person engaged in or conducting any liquor business of any kind, or who holds stock or bonds therein, or who has any pecuniary interest therein, nor shall any such person receive any commission or profit whatever from, or have any interest whatsoever in, the purchases or sales made by persons authorized by this Act to manufacture, purchase, sell, or otherwise deal in the liquor business.

"The Administrator shall act as manager, secretary, and custodian of all records, unless the Board shall otherwise order.

"The Administrator shall devote his entire time to said office.

"The Board or Administrator shall fix the duties, salaries, and wages of all employees authorized by this Act but such compensation, salaries, and wages shall not be greater than the salaries fixed for similar positions and duties in other departments of the State Government. The Board shall likewise have power to require any employee authorized by this Act to give bond for the faithful performance of his duties in such an amount and under such conditions as it may deem adequate and proper. All appointments which have heretofore been made under the terms and provisions of Section 5, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature shall not be affected in any manner by the reenactment of this particular section as herein contained, but all such appointments shall continue as though this section had not been reenacted."

It shall be the duty of the Board, during the month of January of each year, to make a report to the Governor, concerning its administration of this Act."

Sec. 6. That Section 6, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legisla-

ture be amended so as to hereafter read as follows:

Sec. 6. Among others, the functions, powers, and duties of the Board shall include the following:

"(a). To supervise, inspect, and regulate every phase of the business of manufacturing, importation, exportation, transportation, storage, sale, distribution, possession for the purpose of sale, and possession of all alcoholic beverages, including the advertising and labeling thereof, in all respects necessary to accomplish the purposes of this Act. The Board is hereby vested with power and authority to prescribe all necessary rules and regulations to that end; to require the filing of such reports and other data by all persons engaged in any phase of the alcoholic beverage business, which it may deem necessary to accomplish the purposes of this Act; to supervise and regulate all licenses and permittees and their places of business in all matters affecting the general public, whether herein specifically mentioned or not, and to authorize its agents, servants, and employees under its direction to carry out the provisions hereof.

"(b). To grant, refuse, suspend, or cancel permits or licenses for the purchase, transportation, importation, sale, or manufacture of alcoholic beverages or other permits in regard thereto.

"(c). To investigate and aid in the prosecution of violations of this Act and other Acts relating to alcoholic beverages, to make seizures of alcoholic beverages manufactured, sold, kept, imported, or transported in contravention hereof, and apply for the confiscation thereof whenever required by this Act, and co-operate in the prosecution of offenders before any Court of competent jurisdiction.

"(d). To exercise all other powers, duties, and functions conferred by this Act, and all powers incidental, convenient, or necessary to enable it to administer or carry out any of the provisions of this Act and to publish all necessary rules and regulations.

"(e). In the event the United States Government shall provide any plan or method whereby the taxes on liquor shall be collected at the source, the Board shall have the right to enter into any and all contracts and comply with the regulations, even to the extent of partially or wholly abrogating any provisions hereof which may be

in conflict with Federal law or regulations to the end that the Board shall receive the portion thereof allocated to the State of Texas, and to distribute the same as in this Act is provided.

"(f). To require by rule and regulation that any liquor sold in this State shall conform in all respects to the advertised quality of such products; to promulgate rules and regulations governing labelling and advertising of all liquors in strict accordance with the labelling and advertising regulations of the Federal Alcohol Administration; to adopt and enforce a standard of quality, purity, and identity of all alcoholic beverages, and to promulgate all such rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure sanitary conditions in the manufacturing, refining, blending, mixing, purifying, bottling, and re-bottling of any alcoholic beverage and the sale thereof.

"(g). To license, regulate, and control the use of alcohol and liquor for scientific, pharmaceutical, and industrial purposes, and to provide for the withdrawal thereof from warehouses and denaturing plants by regulation, and to prescribe the manner in which the same may be used for scientific research or in hospitals and in sanatoria, in industrial plants, and for other manufacturing purposes, tax-free."

Sec. 7. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new Section to be known as Section 7 (a) which shall read as follows:

"Sec. 7 (a). No rule or regulation for which a penalty is prescribed either by this Act or by the Board, shall be adopted by the Board except after notice and hearing. Notice of such hearing shall be given by publication in three (3) newspapers of general circulation in different sections of the State. Such notice shall specify the date and place of hearing and the subject matter of the proposed rule or regulation and shall constitute sufficient notice to all parties. The date of hearing shall be not less than ten (10) days from the date of publication of notice. At such hearing any person, either by himself or by attorney, may present relevant facts either in support or opposition thereto. The Board shall upon a finding of facts, have the authority and power to

adopt, modify, nullify, or alter such rules or regulations.

"Upon the final adoption of any rule or regulation, the Board shall cause the same to be published one time in a newspaper of general circulation in this State and the same shall have the force and effect of law as of the date of publication, unless a different date is specified therein. The publication thereof shall be sufficient notice to all parties. Any person who violates any valid rule or regulation or any provision thereof shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalty as prescribed in Section 41, Article I of this Act."

Sec. 8. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new Section to be known as Section 7 (b), which shall read as follows:

"Sec. 7 (b). All inspectors and representatives of the Board shall subscribe to the constitutional oath of office which shall be filed in the office of the Board. The Board or Administrator is empowered to commission such number of its inspectors and representatives which it deems necessary to enforce the provisions of this Act. Such commissioned inspectors and representatives shall have all the powers of a peace officer coextensive with the boundaries of this State. Such commissioned inspectors and representatives shall make and execute such bond as may be required by the Board."

Sec. 9. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new Section to be known as Section 7 (c) which shall read as follows:

"Sec. 7 (c). For the purpose of enabling the Board to more efficiently enforce the provisions of this Act, the Attorney General of the State of Texas is hereby directed to appoint as many as six (6) Assistant Attorneys General as the Board may determine to be necessary; and the Attorney General and such Assistants shall prosecute all suits requested by the Board and defend all suits against the Texas Liquor Control Board. The Board is directed to provide said Assistant Attorneys General with the necessary stenographers and office space; and

such Assistant Attorneys General shall be paid by the Board out of funds appropriated to it for the purposes of administration of this Act and their compensation shall be upon the same basis as Assistant Attorneys General devoting their times to general State Business."

Sec. 10. That Section 10, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to read as follows:

"Sec. 10. Every applicant for a pharmacist's Medicinal, Brewer's, Distiller's, Winery (except Class B. Winery), Wholesaler's, Class B. Wholesaler's, Wine Bottler's, or Package Store Permit under this Act shall give notice of such application by publication for two (2) consecutive issues in a newspaper of general circulation published in the city or town in which applicant's place of business is located. Provided, however, that in such instances where no newspaper is published in the city or town, then the same shall be published in a newspaper of general circulation published in the county where the applicant's business is located, and if no newspaper is published in the county, the notice shall be published in a qualified newspaper which is published in the closest neighboring county and circulated in the county of applicant's residence. Such notice shall be printed in ten (10) point black face type and shall set forth the type of permit to be applied for, the exact location of the place of business, the name of the owner or owners thereof, and if operating under an assumed name, the trade name together with the names of all owners, and if a corporation, the names and titles of all officers. The cost of such notice shall be borne by the applicant."

Sec. 11. That Section 11, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to read as follows:

"Sec. 11. The Board or Administrator shall refuse to issue a permit to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:

"(1). That the applicant has been convicted for the violation of any provision of this Act during the two (2)

years next preceding the filing of his application.

"(2). That the applicant has violated any provision of this Act or any rule or regulation of the Board during the previous permit period.

"(3). That the applicant has failed to answer or has incorrectly answered any of the questions on the application.

"(4). That the applicant is indebted to the State for any taxes, fees, or penalties imposed by this Act or by any rule or regulation of the Board.

"(5). That the applicant is not of good moral character, or that his reputation for being a peaceable law-abiding citizen in the community where he resides is bad.

"(6). That the place or manner in which the applicant may conduct his business is of such a nature which based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency warrants a refusal of a permit.

"(7). That the applicant is in the habit of using liquor to excess.

"(8). That the Board or Administrator believes or has reasons to believe that the applicant will sell or knowingly permit any agent, servant, or employee to unlawfully sell liquor in dry area.

"(9). When the word applicant is used in (1) to (8) in this Section, it shall also mean and include each member of a partnership or association and all officers and the owner or owners of the majority of the corporate stock of a corporation."

Sec. 12. That Section 12, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to read as follows:

"Sec. 12. The Board or Administrator may cancel or may suspend for any period of time not exceeding sixty (60) days, after notice and hearing any such permit granted if it is found that any of the following is true:

"(1). That the permittee has at any time been convicted for the violation of any provision of this Act.

"(2). That the permittee has violated any provision of this Act or any rule or regulation of the Board at any time.

"(3). That the permittee has made any false or misleading representation or statement in his application.

"(4). That the permittee is indebted

ed to the State for any taxes, fees, or penalties imposed by this Act or by any rule or regulation of the Board.

"(5). That the permittee is not of good moral character, or that his reputation for being a peaceable and law-abiding citizen in the community where he resides is bad.

"(6). That the place or manner in which applicant conducts his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants the cancellation or suspension of the permit.

"(7). That the permittee is not maintaining an acceptable bond.

"(8). That the permittee maintains a noisy, lewd, disorderly, or insanitary establishment or has been supplying impure or otherwise deleterious beverages.

"(9). That the permittee is insolvent or incompetent or physically unable to carry on the management of his establishment.

"(10). That the permittee is in the habit of using liquor to excess.

"(11). That either the permittee, his agents, servants, or employees have misrepresented to a customer or the public any liquor sold by him.

"(12). Where the word 'permittee' is used in (1), (2), (3), (5), (6), and (10), of this Section it shall also mean and include each member of a partnership or association and each officer and the owner or owners of the majority of the corporate stock of a corporation."

Sec. 13. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new Section to be known as Section 12 (a) which shall read as follows:

"Sec. 12 (a). (1). The Board or Administrator shall have the power upon its own motion, and it is hereby made its duty upon petition of any Mayor, Chief of Police, or any City Marshal, or the City Attorney of any city or town, or the County Judge, Sheriff, or County or District Attorney of any county of this State wherein may be located the place of business of any permittee complained of, which said petition shall be supported by the sworn statement of at least one credible person, to fix a date for hearing and give notice thereof to any permittee complained of for the purpose of determining whether the permit

should be cancelled or suspended and notify such permittee that he may appear to show cause why such permit should not be cancelled or suspended in accordance with the provisions of this Act.

"(2). In all cases where application is made for a permit, the Board or Administrator shall give due consideration to the recommendations of any of the above enumerated officers in granting or refusing such permit. In all instances where a protest against the issuance of a permit is made to the Board by the above enumerated officers, if upon a hearing or upon any finding of facts, it is determined that the issuance of a permit would be in conflict with the requirements as set out in this Act, the Board or Administrator shall enter its order accordingly. A copy of any order or refusal shall be mailed or delivered immediately to the applicant which said order shall set forth the reasons for refusal.

"(3). The Board or Administrator may designate any of its members or other representatives to conduct any hearing, authorized by this Act, make a record thereof, and the Board or Administrator may upon such record render its decision as though the hearing had been held before all members of the Board or Administrator. The Board may prescribe its own rules of procedure and evidence.

"(4). All notices of hearing for refusal, cancellation, or suspension may be served personally or by any representative of the Board or by sending the same by United States registered mail addressed to the person cited at his last known address and no other notice shall be necessary. At least three (3) days notice shall be given in all instances where a hearing is provided for by this Act. Notice of cancellation or suspension stating the reason therefor, shall be served upon the permittee or upon whatever person may be in charge temporarily, or otherwise, of the licensed premises, or shall be affixed to the outside of the door of the licensed premises, or shall be sent by United States registered mail addressed to such permittee or licensee at the licensed premises, or said cancellation notice shall be published by the Board once a week for three (3) consecutive weeks in the county in which the licensed premises are located, or if no newspaper is published in the county, in a newspaper

in a neighboring county. Cancellation or suspension shall take effect upon affixing, service, delivery, or first publication of such notice. Such affixing, service, or delivery, or publication of a cancellation or suspension shall be adequate notice to all parties concerned.

"(5). All notices, orders, records, and publications authorized or required by the terms of this Act shall be privileged. It is further provided that in all suits by the State or Board or in which the State or Board is a party or parties, a transcript from the papers, books, records, and proceedings of the Board purporting to contain a true statement of accounts between the Board or the State and any person, and all rules, regulations, orders, audits, bonds, contracts, or other instruments relating to or connected with any transaction had between the Board and any person, when certified by the Administrator or Chairman of the Board to be true copies of the originals on file with the Board and authenticated under the seal of the Board shall be admitted as prima facie evidence of their verity, existence, and validity and shall be entitled to the same degree of credit that would be due to the original papers if produced and proved in Court; but when any suit is brought upon a bond or other written instrument, executed by any person and he shall by plea under oath deny the execution of such instrument, the Court shall require the production and proof of the same.

In the event the Attorney General shall file suit or claim for taxes and attach or file as an exhibit and report or audit of said permittee or licensee, and an affidavit made by the Administrator or his representative that the taxes shown to be due by said report or audit are past due and unpaid, that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas, of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

"A certificate under the seal of the Board executed by any member or the Administrator setting forth the terms

of any order, rule, regulation, bond, or other instrument referred to in this Section and that the same had been adopted, promulgated, and published or executed and filed with the Board and was in force and effect at any date or during any period specified in such certificate, shall be prima facie evidence of all such facts, and such certificate shall be admitted in evidence in any action, civil or criminal, involving such order, rule, and regulation and the publication thereof, without further proof of such promulgation, adoption, or publication and without further proof of its contents and the same provision shall apply to any bond or other instrument referred to in this Section.

"(6). It shall be the duty of the Board by its printed rules and regulations entered upon its minutes to immediately specify the duties and powers of the Administrator. In all instances whereby provisions of this Act, concurrent powers and duties are imposed upon the Board and Administrator, the Board shall designate such powers and duties which it delegates to the Administrator. All orders, decisions, and judgments entered and rendered by the Administrator in matters upon which he has been empowered to act shall not be subject to change, review, or revision by the Board. All other concurrent powers and duties which are not specifically delegated to the Administrator by the Board's order shall be considered as retained by the Board itself and all orders, decisions, and judgments rendered and entered by the Board shall not be subject to change, review, or revision by the Administrator."

Sec. 14. That Section 13, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to read as follows:

"Sec. 13. Any permit granted under this Act shall be a purely personal privilege, and except wine and beer retailers' permits issued to other than a railway dining, buffet, or club car, good for the year in which issued, and ending on August 31st of each year at 12 o'clock midnight, and all permits shall be revocable for the causes herein stated, subject to appeal as hereinafter provided, and shall not constitute property, nor shall it be subject to execution, nor shall it descend by the laws of

testate or intestate devolution, but shall cease upon the death of the permittee; provided, that the Board, by regulation may provide for a time and manner in which the successor in interest of any deceased, insolvent, or bankrupt permittee or receiver may dispose of liquors left on hand by the permittee.

"It is expressly provided that the acceptance of a permit or license issued under either Article I or Article II of this Act shall constitute an express agreement and consent on the part of the permittee or licensee that the Board, any of its authorized representatives or agents, or any peace officer shall have at all times the right and privilege of freely entering upon the licensed premises for the purpose of conducting any investigation or for inspecting said premises and for the further purpose of performing any duty imposed upon the Board, its representatives, or any peace officer by this Act or by any rule and regulation of the Board."

Sec. 15. That Section 14, Article I, Chapter 467 Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

Sec. 14. Unless specifically denied herein an appeal from any order of the Board or Administrator refusing, cancelling, or suspending a permit or license may be taken to the District Court of the County in which the aggrieved licensee or permittee, or the owner of involved real or personal property may reside. In all other suits against the Board venue shall be in Travis County, Texas. The proceeding on appeal shall be against the Board alone as defendant and the trial shall be de novo under the same rules as ordinary civil suits, with the following exceptions, which shall be considered literally, viz.:

a. All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Board or Administrator.

b. Such proceedings shall have precedence over all other causes of a different nature.

c. All such causes shall be tried before the Judge within ten (10) days from the filing thereof, and

neither party shall be entitled to a jury.

d. The order, decision or ruling of the Board or Administrator may be suspended or modified by the District Court pending a trial on the merits, but the final judgment of the District Court shall not be modified or suspended pending appeal.

Sec. 16. That Section 15 and all subdivisions thereunder of Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 15. Permits shall be of the following classes:

"(1). Brewer's Permit. A Brewer's Permit shall authorize the holder thereof to:

"(a). Manufacture, bottle, package, label, and sell malt liquors. The privileges granted to a Brewer are confined strictly to malt liquor manufactured under his permit;

"(b). Sell same in this State to wholesale permit holders only;

"(c). Sell same out of State to qualified persons.

"The annual permit fee shall be One Thousand Dollars (\$1,000).

"(2). Distiller's Permit. A Distiller's Permit shall authorize the holder thereof to:

"(a). Manufacture and rectify distilled spirits except alcohol, and bottle, package, label, and sell same. The privileges granted to a distiller are confined strictly to distilled spirits manufactured and rectified under his permit;

"(b). Sell same in this State to the holders of Wholesaler's Permits only;

"(c). Sell same out of State to qualified persons;

"(d). Import distilled spirits for manufacturing purposes only.

"The annual permit fee shall be One Thousand Dollars (\$1,000).

"(3). Class A Winery Permit. A Class A Winery Permit shall authorize the holder thereof to:

"(a). Manufacture, bottle, label, package and sell wine containing not more than twenty-four (24) per centum of alcohol by volume;

"(b). Manufacture and import grape brandy for fortifying purposes only and to be used only on his licensed premises;

"(c). Sell same in this State to permit holders authorized to sell

same and to the ultimate consumer in unbroken packages for off-premises consumption;

"(d). Sell same out of State to qualified persons;

"(e). Blend wines and for that purpose only to import wines. In such instances the State tax on such imported wines shall not accrue until the wine has been used for blending purposes and the resultant product placed in containers for sale.

"Such permit to be granted only upon presentation of a 'Winemaker's and Blender's Basic Permit' of the Federal Alcohol Administration.

"The annual permit fee shall be Fifty Dollars (\$50).

"(4). Class B Winery Permit. A Class B Winery Permit shall authorize the owner thereof to:

"(a). Manufacture, bottle, package, label, and sell wine from grapes, fruits, and berries grown on the permit holder's own premises only and containing not more than twenty-four (24) per centum of alcohol by volume;

"(b). Manufacture and import grape brandy for fortifying purposes only and to be used only on his licensed premises;

"(c). Sell same in this State to any permit holder authorized to sell the same and to the ultimate consumer in unbroken packages for off premises consumption;

"(d). Sell same to authorized persons out of State.

"Such permit to be granted only upon presentation of a 'Winemaker's and Blender's Basic Permit' of the Federal Alcohol Administration.

"The annual fee shall be Ten Dollars (\$10).

"(5). Rectifier's Permit. A Rectifier's Permit shall authorize the holder thereof to:

"(a). Rectify, purify, and refine distilled spirits and wines other than vermouth by any process other than as provided for on distillery premises;

"(b). Mix wines, distilled spirits, or other liquors;

"(c). Bottle, label, package, and sell his finished products;

"(d). Sell same in this State to wholesale permit holders only;

"(e). Sell same out of State to qualified persons;

"(f). Import distilled spirits for

rectification purposes but not for resale.

"The annual permit fee shall be One Thousand Dollars (\$1,000).

"(6). Wholesaler's Permit. A Wholesaler's Permit shall authorize the holder thereof to:

"(a). Purchase and import liquor from distillers, brewers, wineries, wine bottlers, rectifiers, manufacturers, and their agents and purchase from other wholesalers within the State;

"(b). Sell liquor in original containers in which received in this State to retailers and wholesalers authorized to sell same;

"(c). Sell liquor out of State to qualified persons;

"(d). It is provided that a person applying for a wholesaler's permit shall be authorized to include in a single application his petition for such permit, as well as for private storage, storage in a public bonded warehouse, and private carrier's permit, and any other permit which he is qualified to receive under the provisions of this Act. Provided, however, that such wholesaler shall pay the fees prescribed by this Act for each such permit covered in such wholesaler's application. This same subdivision shall apply to a Class B Wholesaler's, Rectifier's, Brewer's, Distiller's, Class A Winery, and Class B Winery Permits.

"The annual fee shall be One Thousand, Two Hundred and Fifty Dollars (\$1,250).

"(7). Class B Wholesaler. A Class B Wholesaler's Permit shall authorize the holder thereof to:

"(a). Purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers and bottlers, and purchase from other wholesalers within the State;

"(b). Sell same in original containers in which received in this State to retailers and wholesalers authorized to sell same;

"(c). Sell same out of State to qualified persons.

"The annual fee shall be Two Hundred Dollars (\$200).

"(8). Package Store Permit. A package store permit shall authorize the holder thereof to:

"(a). Purchase liquor from the holders in this State of Winery, Wholesaler's, Class B Wholesaler's, and Wine Bottler's Permits;



"(b). Sell on or from licensed premises at retail to consumer for off-premises consumption only and in unbroken packages and unbroken containers only;

"(c). Sell malt and vinous liquors in original containers of not less than six (6) ounces;

"(d). Sell vinous liquors but in quantities of less than five (5) gallons in original containers in any single transaction.

"(e). A package store permit may also include a private carrier's permit upon payment of the required fee;

"(f). Any person holding more than one package store permit may designate one of the licensed premises as the place for storage of liquor and he shall be privileged to transfer liquor from such storage to his other licensed premises under such rules as shall be prescribed by the Board.

"The annual fee for a package store in cities and towns shall be based upon the population according to the last preceding Federal Census as follows:

Population	Fee
25,000 or less	\$125.00
25,001 to 75,000	175.00
75,001 or more	250.00

"The annual fee for a package store outside of cities and towns shall be One Hundred and Twenty-five Dollars (\$125), except the annual fee for a package store outside of any incorporated city or town and within two (2) miles of the corporate limits shall be the same as the fee required in said incorporated city or town.

"The annual fee for a package store to sell wine only in cities and towns shall be based on population according to the last preceding Federal Census as follows:

Population	Fee
2,000 or less	\$5.00
2,001 to 5,000	7.50
5,001 to 10,000	10.00
10,001 or more	12.50

"The annual fee for a package store to sell wine only outside of cities and towns shall be Five Dollars (\$5).

"(9). Agent's Permit. An Agent's Permit shall authorize the holder thereof to:

"(a). Represent any person who

is authorized to sell liquor other than a retailer;

"(b). Solicit and take orders for the sale of liquor from any authorized permit holder;

"(c). Carry samples of liquor in containers not less than one-half ( $\frac{1}{2}$ ) pint.

"Any person acting as agent or salesman for the sale of or for taking or soliciting orders for the sale of any liquor irrespective of whether such sale is to be made within or without the State is required to procure an agent's permit. It is not intended that this shall apply to the employee of a permit holder who sells liquor and who remains on the licensed premises in making such sale.

"The annual fee for such permit shall be Five Dollars (\$5).

"(10). Industrial Permit. No other provisions of this Act shall apply to alcohol intended for industrial, medicinal, mechanical, or scientific purposes. Industrial permits may be issued to persons desiring to import, transport, and use alcohol for use in the manufacturing and sale of any of the following, tax-free:

"(1). Denatured alcohol;

"(2). Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;

"(3). Flavoring extracts, syrups, condiments, and food products;

"(4). Scientific, chemical, mechanical, industrial, and medicinal products and purposes.

"It shall be unlawful for any person to knowingly sell any of the products enumerated in paragraphs (1), (2), (3), and (4) for beverage purposes or to sell any of the same under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose.

"It shall be unlawful for any person to purchase, transport, or use alcohol for any purpose enumerated in this Section unless and until he shall have secured an industrial permit. It is provided however that the following are exempt from procuring such permit:

"(a). Druggists or pharmacists in the filling of prescriptions issued by a physician in the legitimate practice of medicine;

"(b). All state institutions;

"(c). All bona fide or chartered

schools, colleges, or universities for scientific or laboratory use;

"(d). All hospitals, sanatoria, or other bona fide institutions for the treatment of the sick;

"(e). Persons who purchase, sell, or possess denatured alcohol after the same has been produced and so long as it retains its identity as such.

"The annual fee for an Industrial Permit shall be Ten Dollars (\$10).

"(11). Carrier Permit. The word carrier when used in this Section shall mean and include water carriers, airplane lines, all steam, electric, and motor power railway carriers, and common carrier motor carriers operating under a certificate of convenience and necessity issued by the Railroad Commission of Texas or such certificates issued by the Interstate Commerce Commission. The holders of such certificates shall be authorized to transport liquor into and out of this State and between points within this State. Such carriers shall furnish such information concerning the transportation of liquor as may be required by the Board. The restrictions contained in this Section shall not apply when in the course of an interstate or foreign shipment of liquor it is necessary to cross the State in the course of such transportation.

"The annual fee shall be Five Dollars (\$5).

"(12). Private Carrier Permit. Brewers, distillers, wineries, rectifiers, wholesalers. Class B Wholesalers, Wine Bottler's, and package store permittees shall be entitled to transport liquor from the place of sale or distribution to the purchaser, upon vehicles owned in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this State, and any such permittee desiring to engage in such business for hire shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a private carrier permit and such application shall con-

tain all information which shall be required by the Board. All vehicles used by such permittees for the transportation of liquor within this State shall have printed or painted on said vehicles such designation as may be required by the Board. It shall be unlawful for any such permittee above named to transport liquors in any vehicle not fully described in his application for a permit. It shall be unlawful for a package store permittee who procures a private carrier' permit to deliver any liquor sold by him in any dry area; or to deliver any liquor sold by him outside the corporate limits of the city or town wherein his business is located; or if located outside the limits of a city or town to deliver any liquor sold by him within the corporate limits of any city or town or outside the limits of the Justice of Peace precinct wherein his business is located.

"The annual fee for such permit shall be Five Dollars (\$5).

"(13). Local Cartage Permit. The Board is hereby authorized to issue Local Cartage Permits to warehouse or transfer companies desiring to transport liquor for hire within the corporate limits of any city or town within this State. It shall be unlawful for any person to transport liquor for hire within any city or town unless and until he shall have secured such permit or to transport the same in violation of the motor carrier laws of this State. In the case of local cartage, liquors shall not be transported by the holder of such Local Cartage Permit unless and until a description of each vehicle used in such transportation shall be furnished as may be required by the Board; and each such vehicle shall be plainly marked or lettered in such manner as to plainly indicate that such vehicle is being used for the transportation of liquors by the holder of a Local Cartage Permit. The transportation of liquor by the holder of a Local Cartage Permit in any vehicle not so described and marked shall be unlawful and shall constitute grounds for the cancellation of such permit. It shall be unlawful for the holder of a Local Cartage Permit to transport liquor for hire between incorporated cities or towns in this State unless and until he shall have fully complied with the requirements of the motor car-

rier laws of this State governing the issuance of 'carrier' permits.

"The annual fee for Local Cartage Permits shall be Five Dollars (\$5).

"(14). Bonded Warehouse Permits. A public bonded warehouse not located in dry area and which derives at least fifty (50) per cent of its gross revenue in a bona fide manner during a period of each three (3) months from the storage of goods or merchandise other than liquors shall be qualified to obtain and hold a Bonded Warehouse Permit. Such permit shall authorize the holder thereof to store liquors for any permittee who holds a permit to store in such public bonded warehouse. The holder of Bonded Warehouse Permits shall furnish such information concerning the liquor stored and withdrawn as may be required by the Board.

"The annual fee for such permits shall be One Hundred (\$100). Dollars.

"(15). Storage Permit. The holders of brewery, distillery, winery, rectifier, wholesaler, wine bottler, and Class B Wholesaler permits shall be authorized to procure Storage Permits. Storage Permits may be issued to store in a public bonded warehouse for which a permit has been issued as well as to store in private warehouses owned and operated by the applicant. A permit must be procured for each place of storage. No Storage Permit shall be granted in a dry area. No permit need be procured by the above named permit holders for the storage of stock in trade kept on the licensed premises. No additional fee shall be paid for storage permits.

"(16). Wine and Beer Retailer's Permit. The Board is authorized to issue Wine and Beer Retailer's Permits. The holders of such permits shall be authorized to sell for consumption on or off the premises where sold, but not for resale, vinous and malt beverages containing alcohol in excess of one-half of one per cent by volume and not more than fourteen (14) per cent of alcohol by volume. All such permits shall be applied for and issued, unless denied, and fees paid, upon the same procedure and in the same manner and upon the same facts and under the same circumstances, and for the same duration of time, and shall be renewable in the same man-

ner, as required and provided to govern application for and issuance of Retail Beer Dealer's Licenses under Article II of this Act, and shall be subject to cancellation or suspension for any of the reasons that a Retail Beer Dealer's License may be cancelled or suspended, and upon the same procedure. All alcoholic beverages which the holders of such permits are authorized to sell may be sold with the same restrictions as provided in Article II governing the sale of beer, as to prohibited hours, local restrictions, age of employees, installation or maintenance of barriers or blinds in openings or doors, prohibition of the use of the word 'saloon' in the signs or advertising, and subject to the same restrictions upon consumption of wine as provided for beer in the case of Retailer Beer Dealers in Section 16 of Article II of this Act. For the violation of any applicable provisions of Article II of the holders of such permits shall be liable for penalties provided in Article II; for the violation of any other provision of this Act the holders of such permits shall be subject to penalties provided in Article I of this Act.

"The annual fee for such a permit shall be Thirty Dollars (\$30) and shall be distributed in the manner provided for the distribution of fees derived under Article II of this Act; provided, however, that a Wine and Beer Retailer's Permit may be issued for a railway dining, buffet, or club car upon payment of a fee of Five Dollars (\$5) for each car; provided, however, that application therefor and the payment of fee shall be made direct to the Board; and provided further that any such permit for a railway dining, buffet, or club car shall be inoperative in any dry area as the same is defined in this Act.

"(17). Wine Bottler's Permit. A Wine Bottler's Permit shall authorize the holder thereof to:

"(a). Purchase and import wine;

"(b). Bottle, re-bottle, label, package, and sell wine to permit holders in this State authorized to purchase and sell the same;

"(c). Sell same to qualified persons out of the State;

"(d). Withdraw wine from a container without State tax stamps and transfer the same to other containers, and affix the State tax stamps

to such containers before making a sale.

"(e). 'Keep a permanent record of every purchase and sale, showing the name of the person bought from and sold to, the gallonage and the per centum of alcohol by volume.'

"The annual permit fee shall be One Hundred and Fifty Dollars (\$150).

"(18). Medicinal Permits. Retail Pharmacists shall be entitled to receive medicinal permits and sell or dispense liquor for medicinal purposes only. The holders of such permits are authorized to purchase liquor from holders of wholesaler's permit in this State. Any pharmacy for which a permit is sought must be a bona fide pharmacy registered with the State Board of Pharmacy; must employ and have on duty at all times a registered pharmacist and must have been in operation as a pharmacy for at least two years in the particular political subdivision in which a permit is sought.

"It shall be unlawful for any holder of a medicinal permit, his agents, servants, or employees to sell or dispense any liquor except upon a prescription issued by a physician licensed to practice medicine in this State.

"It shall be unlawful for any physician who is not licensed to practice medicine for the care and treatment of human ailments in this State to prescribe liquor as medicine for any person.

"It shall be unlawful for any physician to prescribe liquor for any person, and for any person to sell or dispense liquor under a prescription for any other than medicinal purposes.

"It shall be unlawful for any person to sell or deliver any liquor from the premises for which a Medicinal Permit has been issued, unless the person making such sale or delivery shall have physical possession of the prescription for such liquor.

"It shall be unlawful for any physician to prescribe more than one pint of liquor to any person in any one day.

"Prescriptions for liquor must be signed by the physician and must bear the date of issuance, the name and address of the patient, and the directions for use. The permittee, who fills a prescription for liquor,

is charged with the duty of preserving such prescription for a period of at least two (2) years and the same shall be open for inspection at any time upon request by any authorized representative of the Board. All Medicinal Permit holders shall make and keep such other records as may be required by the Board, relative to receipts and sales of liquor. It is specifically provided that only the holders of Medicinal Permits are authorized to sell and dispense liquor for medicinal purposes. It shall be unlawful for any pharmacist to knowingly fill a liquor prescription bearing a fictitious name, for anyone.

"The annual permit fee for a Medicinal Permit to pharmacies in dry areas shall be Fifty Dollars (\$50) and in wet areas the annual fee shall be the same as the annual fee for a package store.

"Medicinal Permits may also be issued by the Board to hospitals, sanatoria, and like institutions for the care and treatment of the sick. The holders of such permits are authorized to purchase liquor from holders of wholesaler's permits in this State, and such hospitals, sanatoria, and other like institutions may sell or dispense the same for medicinal purposes only. The holders of such permits may dispense medicinal liquor at any time but only to patients or inmates confined or under treatment therein, but in no event except under the direction of licensed physicians. The annual fee for hospitals, sanatoria, and like institutions shall be One Dollar (\$1) regardless of when issued and no bond shall be required.

"It shall be unlawful for any pharmacist, owner, or operator of a pharmacy holding a medicinal permit to employ or compensate in any manner any physician in this State for writing a prescription for medicinal liquor."

Sec. 17. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new Section to be known as Section 15 (a) which shall read as follows:

"Sec. 15 (a). Except as to Agent's, Industrial, Carrier's, Private Carrier's, Local Cartage, and Storage Permits, and as to such Wine and Beer Retailer's Permits as shall be issued to operators of dining,

buffet, or club cars, and Class 'B' Winery Permits, the Commissioners Court of each county in this State shall have the power to levy and collect from every person that may be issued a permit hereunder in said county a fee equal to one-half of the State fee; and the city or town wherein the permittee is domiciled shall have the power to levy and collect a fee not to exceed one-half of the State fee, but no other fee or tax shall be levied by either. Nothing herein contained shall be construed as preventing the levying, assessing, and collecting of general ad valorem taxes on the property of said persons. All permits shall be displayed in a conspicuous place at all times on the licensed premises. Any permittee or licensee who engages in the sale of any alcoholic beverage without having first paid the fees which may have been levied by the county or city as herein provided shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200.).

Sec. 18. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new Section to be known as Section 15 (b) which shall read as follows:

"Sec. 15 (b). All permit fees levied by this Act except Wine and Beer Retailer's Permits issued to other than railway dining, buffet, or club cars shall be paid in advance for one year unless such fee be collected for only a portion of the year. In such event, the fee required shall cover the period of time from the date of the permit to midnight of August 31st succeeding, and only the proportionate part of the fee levied for such permit shall be collected. The fractional part of any month remaining shall be counted as one month in calculating the fee that shall be due. A separate permit shall be obtained and a separate fee paid for each outlet of liquor in this State. No refund of permit fees shall for any reason be made by the Board unless the owner thereof is prevented from continuing in business by reason of the result of a local option election."

Sec. 19. That Article I, Chapter 467, Acts of the Second Called Ses-

sion of the Forty-fourth Legislature, be amended by adding thereto a new Section to be known as Section 15 (c) which shall read as follows:

"Sec. 15 (c). (1) All permits provided for in Article I of this Act, except Wine and Beer Retailer's Permits other than for railway dining, buffet, or club cars shall be applied for and obtained from the Board. Notice of all applications filed with the Board except Wine and Beer Retailer's, Carrier's, Private Carrier's, Industrial, Agent's, Bonded Warehouse, and Storage Permits shall be given to the County Judge of the county wherein applicant's place of business is located. Such notice shall be given by the Board. The Board shall prepare and furnish forms for all such applications. Each application shall be accompanied by a cashier's check or a money order for the amount of the fee due the State, payable to the order of the State Treasurer. In the event such application is rejected, such check or money order shall be returned to the applicant.

"(2). All applications for permits for the year beginning September 1, 1937, and succeeding years shall be made on forms furnished by the Board. Such forms shall require of each applicant all information demanded by the provisions of this Act. For succeeding permit years, the Board is authorized to grant permits to applicants who were permit holders for the year beginning September 1, 1937, or a part thereof, upon filing with the Board a statement in affidavit form, that the facts and representations in the application on file are true and correct; provided, however, that the Board or Administrator shall have the power to require any other additional information. Forms for such affidavit shall be furnished by the Board. Applicants who were permit holders for the year beginning September 1, 1937, or any portion thereof, shall not be required to again publish notices as is required of original applicants, but upon payment of the proper fee and the filing of the proper bond and affidavit, the Board is authorized to issue such permit."

Sec. 20. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new

Section to be known as Section 15 (d) which shall read as follows:

"Sec. 15 (d). In case of loss or destruction of a permit or in case it is necessary to make any change in any such permit the Board is authorized to issue a duplicate or corrected permit. The Board shall have the power and authority to require at any time any officers or officer of a corporation, holding a permit or license under either Article I or Article II of this Act, to file a sworn statement showing the actual owners of its corporation stock, the amount of stock owned by each, the officers of such corporation, and all information concerning the qualifications of such officers and of the actual owners of such stock. Any person making any false statement therein shall be deemed guilty of perjury and punished as provided in this Act."

Sec. 20½. That Section 15 (a), Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 15 (e). Nothing in this Act shall be construed as limiting the right of any minister, priest, or rabbi, or religious organization from obtaining sacramental wine for sacramental purposes, only, directly from any lawful source whatsoever, whether from within the limits of the State of Texas or from outside the State; nor shall any fee or tax be charged, directly or indirectly, for the exercise of this right. The Board shall have the power and authority to make rules and regulations concerning the importing of any such wine, for the purpose of preventing any unlawful use of such right."

Sec. 21. That Section 16, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 16. All bonds required by this Act shall be executed by a surety company duly authorized and qualified to do business in this State. The Board shall not cancel any surety bond until said surety company shall have paid and discharged in full all of its liability upon said bond to the State to the date of said cancellation. The holders of all permits, except carriers and wine and beer retailers, shall be required to make bonds in sums of not less than One Thousand Dollars (\$1,000) and not exceed-

ing Twenty-five Thousand Dollars (\$25,000).

"The Board in its discretion may fix the amount of bond which shall be required for each class of permittees. All bonds required of permittees shall be payable to the State of Texas conditioned that so long as the applicant holds such permit unrevoked he will not violate any of the laws of this State relative to the traffic in, transportation, sale, or delivery of liquor or any of the valid rules or regulations of the Board, and in the case of such permittees as are required to account for taxes and fees that such permittees will account for and pay all permit fees and taxes levied by this Act. All bonds required of permittees shall be payable in Travis County, Texas. In all instances where other permits are required, incidental to the operation of a business for which a basic permit is procured, the Board may in its discretion accept one bond to support all such permits and in such amounts as it may require."

Sec. 22. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended by adding thereto a new Section to be known as Section 17, which shall read as follows:

"Sec. 17. (1). It shall be unlawful for any person holding a package store permit, or owning an interest in a package store, to have any interest, either directly or indirectly, in a Wine and Beer Retailer's Permit, or Beer Retailer's License, or the business thereof.

"(2). It shall be unlawful for any person to hold or have an interest in more than five (5) package stores or the business thereof. It shall further be unlawful for any person to hold or have an interest in more than five (5) package store permits.

"(3). It shall be unlawful for any person who owns or has an interest in the business of a distiller, brewer, rectifier, wholesaler, winery, or wine bottler, or any agent, servant, or employee:

"(a). to own or have an interest, directly or indirectly, in the business, premises, equipment, or fixtures of any retailer;

"(b). to furnish, give, or lend any money, service, or other things of value, or to extend unusual credit terms to any retailer, or to any person, for the use, benefit, or relief of

such retailer, or to guarantee the fulfillment of any financial obligation of any retailer;

"(c). to make or enter or offer to enter into an agreement, condition, or system, the effect of which will amount to the shipment and delivery of alcoholic beverages on consignment;

"(d). to furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to any retailer;

"(e). to pay or make any allowances to any retailer for a special advertising or distribution service, or to allow any excessive discounts;

"(f). to offer any prize, premium, gift, or other similar inducement to any retailer or consumer.

"(4). It shall be unlawful for any person operating under a permit under Article I or Article II of this Act to refuse to allow the Board, or any authorized representative of said Board, or any peace officer upon request to make a full inspection or investigation of the licensed premises.

"(5). It shall be unlawful for any person to employ anyone under twenty-one (21) years of age to sell, handle, transport, or dispense or to assist in selling, handling, transporting or dispensing any liquor unless otherwise provided.

"(6). It shall be unlawful for any person who holds a permit under Article I or Article II of this Act to contribute any money or any thing of value toward the campaign expenses of any candidate for any office in this State.

"(7). It shall be unlawful for any person to possess, buy, sell, or offer to buy or sell any empty carton, case, package, keg, barrel, bottle, or any other kind of container whereon the State tax stamp has not been mutilated or defaced.

"(8). It shall be unlawful for any person to break or open any container containing liquor at, on or near the premises of a package store.

"(9). It shall be unlawful for any person to sell, barter, exchange, deliver, or give away any drink or drinks of liquor to any person from a package or container that has for any reason been opened or broken at, on, or near the premises of a package store.

"(10). It shall be unlawful for any person to fail or refuse to comply with any requirement of this Act

or with any valid rule and regulation of the Board.

"(11). It shall be unlawful for any person, directly or indirectly, to be interested in, connected with, or be a party to a consignment sale as herein defined.

"(12). It shall be unlawful for any person to have in his possession or transport in this State any illicit beverage.

"(13). It shall be unlawful for any person to import, sell, offer for sale, barter, exchange, or possess for the purpose of sale any liquor the container of which contains less than one-half pint; provided however, that in the case of malt or vinous liquors a six (6) ounce container shall be the minimum.

"(14). It shall be unlawful for any person to have curtains, hangings, signs, or any other obstruction which prevents a clear view of the interior of any package store; provided however, that this shall not apply to a drug store which holds a package store permit so as to prevent the display of drug merchandise.

"(15). It shall be unlawful for any person to sell or offer to sell any alcoholic beverage that shall have been authorized by any permit or license held by him after notice of cancellation or suspension of such permit or license by the Board shall have been given.

"(16). It shall be unlawful for any carrier to import into this State and deliver any liquor to any person not authorized to import the same, or to transport and deliver liquor to any person in a dry area in this State, unless the same be for a lawful purpose as provided in this Act."

"(17). "It shall be unlawful for any person to manufacture, import, sell or possess for the purpose of sale any alcoholic beverage made from dried grapes, dried fruits and dried berries or any compounds made from synthetic materials, concentrate of wines or substandard wines."

Sec. 23. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended by adding thereto a new Section to be known as Section 17 (a) which shall read as follows:

"Sec. 17 (a). (1) It shall be unlawful for any person to have in his

possession any equipment or material designed for, capable of use for, or used in the manufacturing of any illicit beverage.

"(2). Any person who makes any false statement or representation in his application for a permit or license, or in any statement, report, or other instrument to be filed with the Board, which is required to be sworn to, shall be deemed guilty of perjury and his punishment fixed as prescribed for such offense in Article 308 of the Penal Code, 1925."

Sec. 24. That Section 19, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 19. If a person has been finally convicted in any Court for the violation of any provision of this Act or of any rule and regulation of the Board, the Board or Administrator may cancel or suspend any permit which he may hold or in which he may have an interest and no appeal from such action shall be allowed."

"When any person who holds a permit or who has an interest in a permit shall be finally convicted for the violation of any provision of this Act or of any rule and regulation of the Board, or if his permit or a permit in which he has an interest has been cancelled by the Board or Administrator and no appeal is pending, the Board may in its own name institute action upon the bond supporting such permit for the benefit of the State. Upon proof of such conviction or cancellation of the permit, the Court before such suit is brought shall render judgment in favor of the Board for all fines, costs, and fifteen (15) per centum of the face value of the bond."

"If any permittee shall fail to remit seasonably any money due the State, the surety on his bond shall be liable for all such taxes or money due the State and in addition thereto a penalty of fifteen (15) per centum of the face value of the bond. Suits for the collection of any of the amounts herein specified shall be brought in any Court of competent jurisdiction of Travis County, Texas."

"Nothing in this Act shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished by

any prior recovery or recoveries as the case may be.

"The surety may terminate its liability under such bond by giving thirty (30) days' written notice thereof, served either personally or by registered mail, to the principal and to the Board; and upon giving such notice the surety shall be discharged from all liability under such bond for any act or omission of the principal occurring after the expiration of thirty (30) days from the date of service of such notice. Unless on or before the expiration of such period, the principal shall duly file a new bond in like amount and conditioned as the original in substitution of the bond so terminated, the permit of the principal shall likewise terminate upon the expiration of such period."

Sec. 25. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new section to be known as Section 20 which shall read as follows:

"Sec. 20. A search warrant may issue under Title 6 of the Code of Criminal Procedure for the purpose of searching for, seizing, and destroying any alcoholic beverage possessed, sold, transported, manufactured, kept, or stored in violation of the provisions of this Act; for the purpose of searching for and seizing any equipment and instrumentality used for, capable of use for, or designed for use in the manufacturing of any illicit beverage or any vehicle or instrumentality used or to be used for the illegal transportation or storage of any illicit beverage, unlawful equipment, or materials used or to be used in the illegal manufacturing of any illicit beverage and for the purpose of searching for and seizing any forged or counterfeit stamp, die, plate, official signature, certificate, evidence of tax payment, license, or other instrument pertaining to this Act, or any instrumentality, or equipment or parts thereof used or to be used, designed, or capable of use for the manufacturing, printing, etching, inditing, or any other way bringing into existence any forged or counterfeit stamp, die, plate, certificate, official signature, evidence of tax payment, permit, license, or any other instrument pertaining to this Act."



"Search warrants may be issued by any magistrate upon the affidavit of a credible person, setting forth the name or description of the owner or person in charge of the premises to be searched, or stating that his name and description are unknown, the address or description of the premises, and showing that the described premise is a place where some specified phase or phases of this Act are violated or are being violated. If the place to be searched is a private dwelling occupied as such and no part thereof is used as a store, shop, hotel, boarding house, or any purpose other than a private residence such affidavit shall be made by two (2) credible persons.

"Except as herein provided the application, issuance, and execution of any such warrant and all proceedings relative thereto shall conform as near as may be to the provisions of Title 6 of the Code of Criminal Procedure.

"All such alcoholic beverages and articles shall be seized by the officer executing the warrant and shall not be taken from the custody of any officer by writ of replevin nor any other process but shall be held by such officer to await final judgment in the proceedings. It is not intended by the provisions of this Section that a search warrant shall be required for any peace officer or any agent, representative, or inspector of the Board to search any premise covered by any permit or license under the provisions of this Act."

Sec. 26. That Section 21, of Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Section 3, Article III, House Bill No. 8, Third Called Session of the Forty-fourth Legislature be amended so as to read as follows:

"Sec. 21. There is hereby levied and imposed on the first sale in addition to the other fees and taxes levied by this Act the following:

"(a). A tax of Ninety-six (96) Cents per gallon on each gallon of distilled spirits, provided the minimum tax on any package of distilled spirits shall be Six (6) Cents.

"(b). A tax of Ten (10) Cents on each gallon of vinous liquor that does not contain over fourteen (14) per cent of alcohol by volume.

"(c). A tax of Twenty (20)

Cents on each gallon of vinous liquor containing more than fourteen (14) per cent and not more than twenty-four (24) per cent of alcohol by volume.

"(d). A tax of Twenty-five (25) Cents on each gallon of artificially carbonated and natural sparkling vinous liquor.

"(e). A tax of Fifty (50) Cents on each gallon of vinous liquor containing alcohol in excess of twenty-four (24) per cent by volume.

"(f). A tax of Fifteen (15) Cents on each gallon of malt liquor containing alcohol in excess of four (4) per cent by weight.

"The term 'first sale' as used in Article I of this Act shall mean and include the first sale, possession, distribution, or use in this State of any and all liquor refined, blended, manufactured, imported into, or in any other manner produced or acquired, possessed, or brought into this State.

"The tax herein levied shall be paid by affixing a stamp or stamps on each bottle or container of liquor. Said stamps shall be affixed in strict accordance with any rule or regulation promulgated in pursuance of this Act; provided however, any holder of a permit as a retail dealer as that term is defined herein shall be held liable for any tax due on any liquor sold on which the tax has not been paid.

"It shall be the duty of each person who makes a first sale of any liquor in this State to affix said stamps on each bottle or container of liquor and to cancel the same in accordance with any rule and regulation of the Board. The Board shall have power to relax the foregoing provision when in its judgment it would be impracticable to require the affixing of such stamp on the bottle or container. In the case of wines, the stamp shall be affixed to every container intended to be sold as an unbroken package to the ultimate customer. And no wine shall be sold for consumption on the premises of a person holding a Wine and Beer Retailer's Permit except from a container having the State tax stamp affixed thereto. And any person, persons or association who violates any portion of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine of not less than One Hun-

dred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year. Every holder of a permit authorizing the wholesaling of liquor, upon receipt of a shipment of liquor for sale within this State, under the provisions of this Act, shall prepare and furnish such information and such reports as may be required by rules and regulations of the Board. Any person authorized to export liquor from this State having in his possession any liquor intended for shipment to any place without the State, shall keep such liquors in a separate compartment from that of liquors intended for sale within the State so that the same may be easily inspected and shall attach to each such package of liquor so intended for shipment without the State a stamp of the kind and character that shall be required by proper rule or regulation denoting that the same is not intended for sale within the State. When such liquors are so kept and so stamped no tax on account thereof shall be charged. For defraying the expenses thereof, a charge of Twenty-five (25) Cents shall be made for every such stamp, except that a charge of Ten (10) Cents shall be made for each such stamp placed on vinous or malt liquors of twenty-four (24) per cent alcoholic content or less. All such permittees authorized to transport liquor beyond the boundaries of this State shall furnish to the Board duplicate copies of all invoices for the sale of such liquors within twenty-four (24) hours after such liquors have been removed from their place of business.

Sec. 27. That Section 21(a), Article I, Chapter 467, Acts of the Second Called Session, Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 21(a). Stamps for spirituous liquor shall be issued only in multiples of the rate assessed for each half-pint; stamps for wine shall be issued only in multiple of the rate assessed for each quart; stamps for malt liquors containing alcohol in excess of four (4) per cent by weight shall be issued in multiples of the rate assessed for each twelve (12) fluid ounces; provided that where

any such liquors are contained in containers of one-fifth of a gallon, stamps shall be issued therefor at the assessed rate for each such type of liquor; and provided further, that where any such distilled spirits are contained in containers of one-tenth of a gallon, stamps shall be issued therefor at the assessed rate for each such type of distilled spirits. It is further provided that the taxes herein levied and assessed shall be paid and collected by stamps as provided in this Section."

Sec. 28. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new section to be known as Section 21(b) which shall read as follows:

"Sec. 21(b). The Board shall by rule and regulation designate such permit holders or persons who shall be lawfully entitled to purchase State tax stamps."

Sec. 29 That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new section to be known as Section 21(c) which shall read as follows:

"Sec. 21(c). Each holder of a permit under Article I or Article II of this Act who distills, rectifies, manufactures, or receives any liquor or beer shall make and keep a record of each day's production or receipt of liquor or beer, the amount of tax stamps purchased by him, and the amount of stamps used by him, and each such permit holder other than a retailer shall make and keep a record of each and every sale of liquor or beer and to whom such sale is made. Entry of each such transaction shall be made on the day it occurs. All such permittees shall make and keep such other records as may be required by rule and regulation of the Board.

"It shall be unlawful for any person to fail or refuse to make and keep any record required in this Section, or to fail or refuse to keep such records open for inspection to the Board or its duly authorized representatives during reasonable office hours.

"It shall further be unlawful for any person knowingly with intent to defraud to make or cause to be made any false entry in any records required in this Section or with like

intent to alter or cause to be altered any item in said records."

Sec. 30. That Section 23, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 23. Whenever the term 'dry area' is used in this Act it shall mean and refer to all counties, justice precincts, incorporated cities or towns wherein the sale of alcoholic beverages had been prohibited by valid local option elections held under the laws of the State in force at the time of the taking effect of Section 20, Article XVI, Constitution of Texas in the year 1919. It likewise shall mean and refer to any such areas where sale of such alcoholic beverages shall be prohibited under the terms of this Act.

"The term 'wet area' shall mean and refer to all other areas of the State.

"As to any particular type of alcoholic beverage, each county, justice precinct, incorporated city or town within this State shall be deemed to be a 'dry area' unless such political subdivision was a 'wet area' at the time Section 20 of Article XVI of the Constitution became effective and has not since said time changed its status, or unless the sale of that particular type of alcoholic beverage has been legalized by local option election in such political subdivision since said time.

"The term 'wet area' shall be construed as including in each particular instance only alcoholic beverages of a type or alcoholic beverage not exceeding in alcoholic content that which have been legalized by a valid local option election in the prescribed area.

"The trial Courts of this State shall take judicial knowledge of the status of wet and dry areas as herein defined in any criminal prosecution.

"An allegation that any county or political subdivision as herein provided is a dry area as to any particular type of alcoholic beverage shall in law be deemed sufficient in any information, complaint, or indictment; provided, however, that a different status of such area may be urged and proved as a defense."

Sec. 30 (a). Section 40 of Article I of the Texas Liquor Control Act, as enacted at the Third Called Session

of the 44th Legislature is hereby amended to read as follows:

Sec. 40. The Commissioners' Court upon its own motion may, or upon petition as herein provided shall, as provided in Section 32, order local option elections for the purpose of determining whether liquor of the various types and alcoholic contents herein provided shall be legalized or prohibited.

In areas where the issue or issues to be submitted pertain to the legalization of the sale of liquor, one or more of the following issues may be submitted:

(a) "For legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of four per cent (4%) by weight," and "Against legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of four per cent (4%) by weight."

(b) "For legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of fourteen per cent (14%) by volume," and "Against legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of fourteen per cent (14%) by volume."

(c) "For legalizing the sale of all liquors," and "Against legalizing the sale of all liquors."

In areas where the issue or issues to be submitted pertain to the prohibition of the sale of liquor of any type or types, one or more of the following issues may be submitted:

(a) "For prohibiting the sale of vinous and malt liquors that do not contain alcohol in excess of four per cent (4%) by weight," and "Against prohibiting the sale of vinous and malt liquors that do not contain alcohol in excess of four per cent (4%) by weight."

(b) "For prohibiting the sale of vinous and malt liquors that do not contain alcohol in excess of fourteen per cent (14%) by weight," and "Against prohibiting the sale of vinous and malt liquors that do not contain alcohol in excess of fourteen per cent (14%) by weight."

(c) "For prohibiting the sale of all liquors, except vinous and malt liquors that do not contain alcohol in excess of four per cent (4%) by weight," and "Against prohibiting the sale of all liquors, except vinous and malt liquors that do not contain

alcohol in excess of four per cent (4%) by weight."

(d) "For prohibiting the sale of all liquors, except vinous and malt liquors that do not contain alcohol in excess of fourteen per cent (14%) by volume," and "Against prohibiting the sale of all liquors, except vinous and malt liquors that do not contain alcohol in excess of fourteen per cent (14%) by volume."

(e) "For prohibiting the sale of all liquors" and "Against prohibiting the sale of all liquors."

Sec. 40-A. At any time within thirty days after the result of any local option election held pursuant to the provisions of the Texas Liquor Control Act has been declared, any qualified voter of the county, justice precinct or incorporated town or city of such county in which such election has been held, may contest the said election in the District court of the county in which such election has been held, which shall have original and exclusive jurisdiction of all suits to contest such election, and the proceedings in such contests shall be conducted in the same manner, as now govern the contest of any general election, and said court shall have jurisdiction to try and determine all matters connected with said election, including the petition of such election and all proceedings and orders relating thereto, embracing final count and declaration and publication of the result putting local option into effect, and it shall have authority to determine questions relating to the legality and validity of said election, and to determine whether by the action or want of action on the part of the officers to whom was entrusted the control of such election, such a number of legal voters were denied the privilege of voting, as had they been allowed to vote, might have materially changed the result, and if it shall appear from the evidence that such irregularities existed in bringing about said election or in holding same, as to render the true result of the election impossible to be arrived at, or very doubtful of ascertaining, the court shall adjudge such election to be void, and shall order the proper officer to order another election to be held, and shall cause a certified copy of such judgment and order of the court to be delivered to such officer upon whom is devolved by law

the duty of ordering such election. It is further provided that all such cases shall have precedence in the District court and appellate courts, and that the result of such contest shall finally settle all questions relating to the validity of said election, and it shall not be permissible to again call the legality of said election in question in any other suit or proceeding; and provided further, that if no contest of said election is filed and prosecuted in the manner and within the time provided above, it shall be conclusively presumed that said election as held and the result thereof declared, are in all respects valid and binding upon all courts; provided also that pending such contest the enforcement of local option law in such territory shall not be suspended, and that all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Any qualified voter of any county, justice precinct, incorporated city or town within this State which has heretofore voted on local option may contest said election under the provisions of this act, and if no contest is filed within sixty days from taking effect of this act, it shall be conclusively presumed that said election as held was valid in all things and binding upon all courts.

Sec. 31. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended by adding thereto a new section to be known as Section 23(a), which shall read as follows:

"Sec. 23(a). (1). It is provided that any person who purchases alcoholic beverages for his own consumption may transport same from a place where the sale thereof is legal to a place where the possession thereof is legal.

"(2) Possession of more than one quart of liquor in dry area shall be prima facie evidence that it is possessed for the purpose of sale, subject to the provisions of Sub-section (b) of Section 24 of Article II of this Act.

"(3). It is provided that it shall be lawful for the holders of Carrier's and Private Carrier's Permits to transport liquor from one wet area to another wet area where in the course of such transportation it is necessary or convenient to cross a dry area.

"(4). It is provided that any

person may bring into this State not more than one quart of liquor for his own personal use; provided further, that he shall pay and affix thereto the required State tax stamps.

"(5). It is further provided that any bona fide hotel shall be authorized to hold a Package Store Permit as well as a Wine and Beer Retailer's Permit and a Beer Retailer's License provided such businesses are completely and wholly segregated from each other. The Board is authorized to adopt rules and regulations to enforce this provision. It is further provided that a hotel holding a Package Store Permit may deliver liquor at retail in unbroken packages to the rooms of bona fide guests of such hotel for consumption in such rooms.

"(6). Proof of the sale or delivery by any person holding a retailer's permit of more than three (3) gallons of distilled spirits to any person in a single or continuous transaction shall be prima facie evidence that the same is a sale at wholesale.

"(7). Proof of the sale or delivery by any person holding a permit authorizing the sale of distilled spirits at wholesale of less than three (3) gallons of such distilled spirits in any single transaction shall be prima facie evidence that the same is a sale at retail.

"(8). Upon a trial for a violation of any provision of either Article I or Article II of this Act, a conviction may be had upon the uncorroborated testimony of an accomplice."

Sec. 32. That Section 25, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 25. It shall be unlawful for any person to sell or deliver any liquor:

"(a). Between 12 o'clock midnight and 7 o'clock A. M. on any day;

"(b). On any general primary or general election day between the hours of 7:00 o'clock A. M. and 3:00 o'clock P. M.;

"(c). On Sundays."

Sec. 33. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended by adding thereto a new

section to be known as Section 25 (a), which shall read as follows::

Sec. 25 (a). The Commissioners' Court of any county in the territory thereof outside incorporated cities and towns and the governing authorities of any city or town within the corporate limits of any such city or town may prohibit the sale of alcoholic beverages by any dealer where the place of business of any such dealer is within three hundred (300) feet of any church, public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in direct line across intersections where they occur.

In any incorporated city or town where the sale of beer as defined in the Texas Liquor Control Act is prohibited by charter or amendments thereto or by any ordinance from being sold in the residential section, such charter amendments or ordinances shall remain valid and continue effective until such time as such charter provisions, amendments or ordinances may be repealed or amended.

All incorporated cities and towns are hereby authorized to regulate the sale of beer within the corporate limits of such cities and towns by charter amendment or ordinance and may thereby prescribe the opening and closing hours for such sales; such cities and towns may also designate certain zones in the residential section or sections of said cities and towns where such regulations for opening and closing hours for the sale of beer shall be observed or where such sales may be prohibited.

Sec. 34. That Section 26, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 26. (a). It shall be unlawful to employ anyone to sell liquor who is under the age of twenty-one (21) years.

"(b). It shall further be unlawful for any person to knowingly sell any liquor to any person under twenty-one (21) years of age, or to any person who is intoxicated, or to any habitual drunkard, or to any insane person."

Sec. 35. That Section 27, Article I, Chapter 467, Acts of the Second

Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 27. (a). It shall be unlawful for any person to transport into this State or upon any public highway, street, or alley in this State any liquor unless the person accompanying or in charge of such shipment shall have present and available for exhibition and inspection, a written statement furnished and signed by the shipper, showing the name and address of the consignor and the consignee, the origin and destination of such shipment, and such other information as may be required by rule and regulation of the Board. It shall be the duty of the person in charge of such shipment, while the same is being transported, to exhibit such written statement to the Board or any of its authorized representatives or to any peace officer making demand therefor, and it shall be unlawful for any person to fail or refuse to exhibit the same upon such demand. Such written statement shall be accepted by such representative or officer as prima facie evidence of the lawful right to transport such liquor.

"(b). It shall be unlawful for any brewer, distiller, winery, or manufacturer of any alcoholic beverage or manufacturer's agent, or any of the agents, servants, or employees thereof, to enter or offer to enter into any agreement, contract, arrangement, condition, or system, either orally or written, with any wholesaler or any other person in this State wherein or whereby any person is required, obligated, persuaded, influenced, or induced, or by the terms of which it is intended or calculated to require, obligate, persuade, influence, or induce any person to purchase, produce, obtain, require, or secure any certain volume or quota of business, more or less, of any one or more types, kinds, brands, or varieties of alcoholic beverages, whether the same be within any period of time, or within any area, or upon the fulfillment of any condition, attainment, provision, demand, or promise or to require, obligate, persuade, influence, or induce any person or attempt to require, obligate, persuade, influence or induce any such person to sell any alcoholic beverage in any manner con-

trary to law or in any manner calculated to induce a violation of the law. The Board or Administrator shall have the power and it shall be their duty to investigate such and if they find or have good reason to believe that the provisions set out in this Subsection have been or are being violated it shall be their duty to give notice of hearing to the affected parties in the manner as provided for other hearings. Upon the finding of facts by the Board or Administrator that any such person has violated or is violating any provisions hereof an order shall be entered by the Board or Administrator prohibiting any such person or his agents to directly or indirectly ship into this State any of his goods or merchandise for a period not to exceed one year. It shall further be unlawful for any person to import into this State any alcoholic beverage of such person during the period of suspension as ordered by the Board or Administrator. Any alcoholic beverage so unlawfully transported or imported into this State is hereby declared to be an illicit beverage. The Board shall adopt all necessary rules to effectuate the purposes of this Section."

Sec. 36. That Section 28, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 28 (1). Any person who shall forge or counterfeit any stamp as provided by this Act, or who shall print, engrave, make, issue, sell, circulate, or possess with intent to use, sell, circulate, or pass any forged or counterfeit stamp or who shall place or cause to be placed any such forged or counterfeit stamp on any container of alcoholic beverage shall be guilty of a felony.

"(2). Any person who shall print, engrave, make, issue, sell, or circulate with intent to defraud or who shall knowingly possess any such forged or counterfeit permit, license, official signature, certificate, evidence of tax payment or other instrument shall be guilty of a felony.

"(3). Any person who has in his possession any stamp, die, plate, device, machine, or any other instrument or parts thereof used, or designed for use for forging or counterfeiting any instrument set out in sub-

divisions (1) and (2) of this Section shall be guilty of a felony.

"(4). The term 'counterfeit' or 'forged' as used in this Section shall apply to any stamp, permit, license, official signature, certificate, evidence of tax payment or any other instrument which has not been printed, manufactured, or made by, or under the direction of, or issued, sold or circulated by, the person or Board authorized to do so by the provisions of this Act.

"(5). Upon conviction of any person under any provisions of this Section his punishment shall be by confinement in the State penitentiary for any term of not less than two (2) years nor more than twenty (20) years.

"(6). Conviction for any offense in this Section may be had upon the uncorroborated evidence of an accomplice. Any Court, officer, or tribunal having jurisdiction of any offenses defined in this Section or any District or County Attorney may subpoena any person and compel his attendance as a witness to testify as to the violation of any provision of this Section. Any person so summoned and examined shall not be liable to prosecution for the violation of any provision of this Section about which he may testify."

Sec. 37. That Section 30, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 30. Any illicit beverage as that term is defined in this Act, and all illegal equipment for manufacturing any alcoholic beverages is hereby declared to be contraband and the same may be seized without warrant by the Board, or any one of its agents or employees or by any peace officer and any person found in the possession, or in charge thereof, may be arrested without warrant. All contraband alcoholic beverages so seized shall be turned over to either the sheriff of the county in which such seizure is made or to any authorized representative or agent of the Board.

"The Board shall have the power and authority to assemble seizures of alcoholic beverages and concentrate them at a place in this State where the sale thereof will be deemed most advantageous.

"All contraband alcoholic beverages remaining in the hands of the

sheriff shall be sold by him at public auction to the highest bidder, after due notice of such sale has been posted for a period of at least ten (10) days, but no sale of liquor shall be made to any person unless he is a permittee who is privileged to have possession thereof. No delivery of liquor so sold shall be made to any permittee unless and until the proper State tax stamps have been purchased and affixed as required by this Act.

"It is further provided that immediately after the sale as herein provided, no alcoholic beverage sold at public auction by a sheriff shall be delivered within a period of five (5) days after such sale during which time the Board may in its discretion reject any bids and order the liquor disposed of in any manner herein provided.

"It is further provided however that in all such instances where alcoholic beverages are offered for sale at public auction the Board shall have the right and authority to bid thereon. In the event the Board is the highest bidder such alcoholic beverages shall be delivered to the Board after the payment of the expenses of the sale only and shall be sold by the Board as herein provided.

"All alcoholic beverages which may come into the possession of the Board under the provisions of this Section may be sold by the Board at either public or private sale.

"All illegal equipment shall be destroyed; provided, however, that such equipment which possesses any appreciable value shall be made incapable of further illegal use and may then be sold by the Board or Administrator at private sale.

"All costs and expenses incidental to the seizure, sale, and assembling of all contraband illicit beverages and illegal equipment shall be deducted from the proceeds of the sale thereof.

"The net proceeds from all sales as provided in this Section shall be placed in a separate fund by the Board and may be used from time to time for defraying such expenses, as may be necessary, for the investigation of and obtaining evidence for violations of the provisions of this Act. All money remaining in said fund on August 31st of each year shall be deposited with the State Treasurer for the benefit of the General Fund. The fund herein created

is hereby appropriated and shall be independent of and in addition to any other appropriation which may be made for the use of the Board.

Sec. 38. That Section 31, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 31. It shall be the duty of all peace officers of this State, including city, county and State, to enforce all provisions of this Act and to assist the Board in detecting violation of this Act and apprehending offenders, and of county Courts in cases of violation to make recommendations to the Board for revocation of permits and licenses. Whenever any officer or representative of the Board shall arrest any person for violation of any provision of this Act or of any rule and regulations of the Board, he shall take into his possession all illicit beverages which the person so arrested has in his possession or on his premises."

Sec. 39. That Section 41, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 41. Any person who violates any provision of Article I of this Act for which a specific penalty is not provided shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred (\$100.00) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than one year. The term 'specific penalty' as used in this Section means and refers only to a penalty which might be imposed as a result of a criminal prosecution."

Sec. 40. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new section to be known as Section 41 (a) which shall read as follows:

"Sec. 41 (a). It shall be the duty of the County Clerk of each county to furnish to the Texas Liquor Control Board or representative upon demand a certified copy of the Judgment of Conviction and a certified copy of the information against any permittee or licensee when such permittee or licensee has been convicted for the violation of any provision of this Act. Such certified

copies shall be furnished the Board free of charge.

"County Clerks are also charged with the duty to certify the results of any local option election to the Texas Liquor Control Board at Austin, Texas, within three (3) days after the Commissioners Court of such county has declared the results thereof.

"On August 1st of each year it shall be the duty of each County Clerk to report to the Board at Austin, Texas, the exact status at to wet and dry areas of his county, specifying the status of the county as a whole and of each recognized political subdivision of the county."

Sec. 41. That Section 42, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended so as to hereafter read as follows:

"Sec. 42. Any room, house, building, boat, vehicle, structure, or place where any alcoholic beverage is manufactured, sold, kept, stored, bartered, or given away in violation of the laws of this State, and all alcoholic beverages, equipment, and property kept and used in maintaining the same is hereby declared to be a common nuisance and may be seized without warrant by any representative of the Board or any peace officer.

"Any person who maintains or operates such a common nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than One Thousand Dollars (\$1,000) or be imprisoned in the county jail for not more than one year, or both. If a person has knowledge or reason to believe that his room, house, building, boat, vehicle, structure, or place is occupied or used for the manufacture or sale of alcoholic beverages contrary to the provisions of the laws of this State, and suffers the same to be so occupied or used, such room, house, building, boat, vehicle, structure, or place shall be subject to a lien for and may be sold to pay all fines and costs assessed against the person guilty of such nuisance for such violation and any such lien may be enforced by action in any Court having jurisdiction."

Sec. 42. That Section 44, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth



Legislature, be amended so as to hereafter read as follows:

"Sec. 44. It is further provided that if any wagon, buggy, automobile, water or air craft, or any other vehicle is used for the transportation of any illicit beverage or any equipment designed to be used for illegal manufacturing of illicit beverages, or any material of any kind which is to be used in the manufacturing of illicit beverages, such vehicle together with all such beverages, equipment, or material shall be seized without warrant by any representative of the Board or any peace officer who shall arrest any person in charge thereof. Such officer shall at once proceed against the person arrested and all principals, accomplices, and accessories to such unlawful act, under the provisions of law, in any court having competent jurisdiction; but said vehicle or conveyance shall be returned to the owner upon execution by him of a good and valid bond, with sufficient sureties in a sum double the appraised value of the property, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide judgment of the court. The court upon conviction of the person so arrested shall order the alcoholic beverages disposed of as provided in this Act, and unless good cause to the contrary is shown by the owner, shall order the sale by public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the seizure, and the cost of the sale, shall pay all liens, according to priorities, which are established by intervention or otherwise at said hearing or in other proceeding brought for said purpose, as being bona fide and as having been created without the lien or having any notice that the carrying vehicle was being used or was to be used for illegal transportation of liquor and shall pay the balance of the proceeds to the Board to be allocated as permit fees. All liens against property sold under this Section shall be transferred from the property to the proceeds of its sale. If, however, no one shall be found claiming the team, vehicle, water or air craft, or automobile, the taking of the same, with a description thereof, shall be

advertised in some newspaper published in the city or county where taken, or if there be no newspaper in such city or county, any newspaper having circulation in the county, once a week for two (2) weeks and by handbills posted in three (3) public places near the place of seizure, and if no claimant shall appear within ten (10) days after the publication of the advertisement, the property shall be sold and the proceeds after deducting the expenses and costs shall be paid to the Board to be allocated as permit fees."

Sec. 43. That Section 45, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 45. (a). It shall be the duty of the Texas Liquor Control Board and the Board of Control to have engraved or printed all necessary liquor and beer tax stamps as provided in Articles I and II of this Act. Such stamps shall be of such design and denomination as the Texas Liquor Control Board shall from time to time prescribe and shall show the amount of tax, the payment of which is evidenced thereby, and shall contain the words 'Texas State Tax Paid.' All contracts for stamps required by this Act shall be let by the Board of Control as provided by law. The Texas Liquor Control Board is authorized to expend all necessary funds from time to time to keep on hand an ample supply of such stamps.

"(b). The State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds of such sales under his official bond. He shall sell same to such qualified persons as may be designated by the Board and to no other person. The Treasurer shall have power to designate any State or National Bank in this State as his agent to deliver and collect for any stamps and to remit the proceeds thereof to him. Invoices for liquor stamps shall be issued by the State Treasurer in triplicate and numbered consecutively. The original of such invoice shall be forwarded to the purchaser or to the person in whose care they may be sent for the benefit of a qualified purchaser, the duplicate to the Texas Liquor Control Board, and the triplicate shall be retained by

the State Treasurer. The duplicate copies shall be transmitted daily to the Board in such manner and shall be accompanied by such statements as the Board may require. The State Treasurer shall make and keep a permanent record of all stamps received by him as well as all stamps sold. Such record shall provide a perpetual inventory of all stamps and the disposition thereof and shall at all times be available to the Board or its authorized representatives.

"(c). The Board shall by rule and regulation prescribe the manner in which stamps shall be delivered by the State Treasurer to the Board for use and sale by its inspectors in charge of ports of entry.

"(d). Refunds for stamps may be by the Texas Liquor Control Board from the revenue of stamp sales before the same has been allocated. A refund may be made by the Board in all cases where stamped liquor is returned to the distillery or manufacturer upon a certification by an inspector of the Board who inspected the shipment. The Board may also make a refund to any person who was authorized to purchase stamps and who is in possession of unused stamps upon discontinuation of business. In either instance, it must be shown that the claimant for refund purchased the stamps, for which a refund is asked, from the State Treasurer. No other refunds shall be allowed."

Sec. 44. That Section 46, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Section 3 (c) of Article III of House Bill No. 8, Acts of the Third Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 46. Receipts from the sale of liquor stamps shall be deposited in the State Treasury as follows: One-fourth to the credit of the Available School Fund, and three-fourths to the credit of the Texas Old Age Assistance Fund. All revenues derived from the sale of permits provided for under Article I shall be deposited to the credit of the Texas Old Age Assistance Fund."

Sec. 45. That Section 47, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 47. For the purpose of enabling the Board to perform all of its duties, including the payment of salaries and all other necessary expenses, the Board is hereby authorized to set up a revolving fund in the sum of Fifty Thousand Dollars (\$50,000) to be taken out of revenues derived under the provisions of this Act, which said sum is hereby appropriated and shall be independent of and in addition to any appropriation which may be made."

Sec. 46. That Section 48, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 48. The Board is hereby authorized to have printed in pamphlet form for distribution such number of copies of the Texas Liquor Control Act, as amended hereby, as may be deemed necessary."

Sec. 47. Sections 17, 17a, 20, 22, 23a, and 43, of Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, and all amendments to said Sections are hereby expressly repealed. Section 50 of the Texas Liquor Control Act as enacted in House Bill No. 432, Acts of the Regular Session of the Forty-fifth Legislature pertaining to search warrants is also hereby expressly repealed.

Sec. 48. That the repeal or amendment of any Section or any portion of a Section of the Texas Liquor Control Act by the enactment of this bill shall not affect or impair any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any cause before such repeal or amendment shall take effect; but every such act done, or right vested or accrued, or proceeding, suit, or prosecution had or commenced shall remain in full force and effect to all intents as if such Section, or part thereof, so repealed or amended had remained in force, except that where the course of practice or procedure for the enforcement of such right, or the conducting of such proceeding, suit, or prosecution shall be changed, the same shall be conducted as near as may be in accordance with this Act. No offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to

the time when any section or part thereof shall be repealed or amended by this Act, shall be discharged or affected by such repeal or amendment; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if such prior Statute, or part thereof, had not been repealed or amended, except that where the mode of procedure or matters of practice have been changed by this Act, the procedure had after this Act shall have taken effect in such prosecution or suit shall be, as far as practicable, in accordance with this Act.

Sec. 50. That Article II of Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

#### "ARTICLE II

##### "Definitions

"Section 1. Where used in this Article unless expressly stated otherwise:

"(a) The term 'barrel' means, as a standard of measure, a quantity of beer equal to thirty-one (31) standard gallons.

"(b) The term 'beer' means a malt beverage containing one-half of one per cent or more of alcohol by volume and not more than four (4) per cent of alcohol by weight, and shall not be inclusive of any beverage designated by label or otherwise by any other name than beer.

"(c) The term 'board' means Texas Liquor Control Board.

"(d) The term 'container' means any container holding beer in quantities of one barrel, one-half barrel, one-quarter barrel, one-eighth barrel, or any bottle or can having a capacity of twelve (12) fluid ounces, twenty-four (24) fluid ounces, and thirty-two (32) fluid ounces, and no container of any other capacity shall be authorized.

"(e) The term 'licensee' means any holder of a license provided in this Article, whether acting as principal, agent, or employee.

"(f) The term 'manufacturer' means a person engaged in the manufacture or brewing of beer whether located within or without the State of Texas.

"(g) The term 'original package' means any container holding one

barrel, one-half barrel, one-quarter barrel, or one-eighths barrel of beer in bulk, or any box, crate, carton, or other device used in packing beer that is contained in bottles or other containers.

"(h) The term 'person' shall mean and refer to any natural person or association of natural persons, trustees, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them.

#### "Where Lawful to Manufacture or Sell Beer.

"Sec. 2. The manufacture, sale, distribution, and transportation of beer is hereby authorized within the State of Texas.

"Unless otherwise herein specifically provided by the terms of this Act, the manufacture, sale, distribution, transportation, and possession of beer as herein defined shall be governed exclusively by the provisions of this Article. It shall be unlawful to manufacture, sell, barter, or exchange within this State any beverage containing alcohol in excess of one-half of one per cent by volume and not more than four (4) per cent of alcohol by weight except beer.

"It shall continue to be unlawful to manufacture, sell, barter, or exchange in any county, justice precinct, or incorporated city or town any beer except in counties, justice precincts, or incorporated cities or towns wherein the voters thereof had not adopted prohibition by local option elections held under the laws of the State of Texas and in force at the time of taking effect of Section 20, Article 16 of the Constitution of Texas in 1919; except that in counties, justice precincts, or incorporated cities or towns wherein a majority of the voters have voted to legalize the sale of beer in accordance with the local option provisions of Chapter 116, Acts of the Regular Session of the Forty-third Legislature, or in accordance with the local option provisions, Sections 32 to 40, inclusive, of Article I, of House Bill No. 77, General Laws of Texas, Second Called Session of the Forty-fourth Legislature, or any amendments thereof, beer as herein defined may be manufactured, distributed, and sold as herein provided:

"It is hereby expressly provided that local option elections may be

held in any county, justice precinct, or incorporated city or town within this State in accordance with the provisions of Sections 32 to 40, inclusive, of Article I of the Texas Liquor Control Act, for the purpose of determining from time to time whether the sale of beer shall be prohibited or legalized within the prescribed limits; and it shall be unlawful to sell beer in any county, justice precinct, or incorporated city or town wherein the same shall be prohibited by local option election and lawful to sell beer under the provisions of this Act in any county, justice precinct, or incorporated city or town wherein the sale of beer shall be legalized by local option election.

**"License Required.**

"Sec. 3. It shall be unlawful for any person to manufacture or brew for the purpose of sale or to import into this State, or to distribute, or sell any beer, or to possess any beer for the purpose of sale within this State without having first obtained appropriate license as herein provided, which license shall at all times be displayed in some conspicuous place within the licensed place of business:

"(a) A manufacturer's license shall authorize the holder thereof to manufacture or brew beer and to distribute and sell same to others; and shall also authorize the holder to bottle, can, or pack into containers beer for resale to any place in this State to others, regardless of whether such beer is brewed in the State of Texas, or in any other State of the United States, and imported into Texas; provided that no beer shall be imported into this State except in accordance with the provisions of this Act, that is, in barrels or other containers, and shall at no time be shipped into this State in tank cars; provided that the Liquor Board shall have the same functions, powers and duties to adopt and enforce a standard of quality, purity, and identity of malt beverages and to promulgate all such rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure sanitary conditions in the manufacturing, purifying, bottling, and re-bottling of beer under a manufacturer's license as apply to breweries

located within the State of Texas. Every person, agent, receiver, trustee, firm, corporation, association, or co-partnership opening, establishing, operating, or maintaining one or more establishments under a manufacturer's license within this State under the same general management or ownership shall pay the license fees hereinafter prescribed for the privilege of opening, establishing, operating, or maintaining such establishments. Each establishment bottling beer of the same brand or beer brewed by the same brewery shall be held to be under a common management and control, and shall be subjected to the license fees prescribed herein regardless of the nature of control or ownership of each separate establishment. The annual license fees herein prescribed shall be as follows:

"1. Upon one (1) establishment the license fee shall be \$500.00;

2. Upon each additional establishment in excess of one (1), but not to exceed two (2), the license fee shall be \$10,000.00;

"3. Upon each additional establishment in excess of two (2), but not to exceed five (5), the license fee shall be \$25,000.00;

"4. Upon each additional establishment in excess of five (5), the license fee shall be \$50,000.00.

"The provisions of this Act shall be construed to apply to every person, agent, receiver, trustee, firm, corporation, co-partnership, or association, either domestic or foreign, which is controlled or held with others by majority stock ownership, or ultimately controlled or directed by one management or association of ultimate management.

"(b) General Distributor's License: A General Distributor's License shall authorize the holder thereof to distribute or to sell beer to other General Distributors, Local Distributors, Retail Dealers, and others only in the unbroken original packages in which it is received by him from the manufacturer or other General Distributor, and not to be consumed on the premises where sold. Annual State fee for a General Distributor's License shall be Two Hundred Dollars (\$200).

"(c) Local Distributor's License: A Local Distributor's License shall authorize the holder thereof to sell and distribute beer to Retail Dealers,

ultimate consumers and others in the county of his residence only in the unbroken original packages in which it is received by him, not to be consumed on the premises where sold; and such sales may be made to other local distributors licensed to sell beer only in the county of the selling distributor's residence. Annual State fee for a Local Distributor's License shall be Fifty Dollars (\$50).

"(d) Retail Dealer's On-Premise License: A Retail Dealer's On-Premise License shall authorize the holder thereof to sell beer, for consumption on or off the premises where sold, in or from any lawful container to the ultimate consumer, but not for resale. Annual State fee for a Retail Dealer On-Premise License shall be Twenty-five Dollars (\$25).

"(e) Retail Dealer's Off-Premise License: A Retail Dealer's Off-Premise License shall authorize the holder thereof to sell beer in bottles or other lawful container direct to the consumer, but not for resale and not to be opened or consumed on the premises where sold. Annual State fee for a Retail Dealer Off-Premises License shall be Ten Dollars (\$10).

"(f) Branch License: The holder of a Manufacturer's or General Distributor's License, after obtaining the primary license in the county of his domicile or residence, may establish a place of business in any other county for the distribution of beer upon obtaining a Branch License as herein provided. Any Branch License issued under the provisions of this Section shall terminate at the same time as the primary license of such licensee. The annual State fee for a Branch License shall be Fifty Dollars (\$50); provided, however, that the fee for any license required to terminate in less than twelve (12) months from the date of issue shall be paid in advance at the rate of Four Dollars and Twenty-five Cents (\$4.25) for each month or fraction thereof for which the license is issued.

"To obtain a Branch License the applicant therefor shall present the primary license secured in the county of his residence to the Assessor and Collector of Taxes in such other county, together with the fee herein provided, and it shall be the duty forthwith of such Assessor and Collector of Taxes to certify to the

Texas Liquor Control Board that such application has been made and the required fees paid, and such other information as the Board may require; and upon receiving such certificate and report from the Assessor and Collector of Taxes it shall be the duty of the Board or Administrator to issue the Branch License accordingly.

"(g) The Commissioners Court in each county of this State shall have the power, except as herein otherwise provided as to Temporary Licenses, to levy and collect from every person licensed hereunder in said county a license fee equal to one-half of the State fee; and any incorporated city or town wherein the licensee is domiciled shall have the power to levy and collect a license fee not to exceed one-half of the State fee, but no other fee or tax shall be levied by either. Nothing herein contained shall be construed as preventing the levying, assessing, and collecting of general ad valorem taxes on the property of any person licensed to sell beer.

"(h) The holder of a Manufacturer's License or a Distributor's License shall be authorized to maintain or engage necessary warehouses, for storage purposes only in areas where the sale of beer is lawful from which deliveries may be made without such warehouses being licensed, except when such a warehouse is a premise to which importations of beer are made outside the State. Any warehouse in which sales orders for beer are taken or money therefor collected shall be deemed a separate place of business for which a license is required. No licensed manufacturer or distributor shall be required to obtain an additional license on account of sales of beer consummated at the purchaser's place of business, when such place of business is covered by a retailer's license.

"(i) There is hereby provided a 'Temporary License' authorizing the sale by a Retail Dealer of beer for consumption on or off the premises where sold. The fee for such Temporary License shall be Five Dollars (\$5). Such licenses shall be issued by the Assessor and Collector of Taxes upon application approved by the County Judge, but no such permit shall be issued to any person who

does not also hold a license as provided in Subsection (d) of this Section, and no such permit shall authorize the sale of beer at any point outside the county where same is issued. Any such Temporary License shall expire at the end of the fourth day after the date the same is issued. Fees collected upon the issuance of such Temporary Licenses shall be retained by the county, and no other fees shall be charged for such licenses; and no refund shall be allowed upon the surrender or nonuse of any such license. The County Judge shall issue such licenses only for the sale of beer at picnics, celebrations, or similar events, and may refuse to issue such licenses if in his judgment the issuance of the license would in any manner be detrimental to the public.

"Sec. 3-a. It shall be unlawful for any person to import into this State any beer unless he holds a Distributor's or Manufacturer's License.

"Sec. 3-b. It is provided that any person may import beer into this State for his own personal use but in any one day he shall not import more than one case containing twenty-four (24) bottles having a capacity of not exceeding twelve (12) ounces each, or not exceeding the equivalent thereof if contained in any other kind of container.

"It is also provided that any railroad company operating in this State may import beer owned by such railroad company into this State in such quantities as are necessary to meet the demands of the traveling public while traveling on trains operated by such railroad company, provided, however, no beer shall be sold or served in a dry area.

"Sec. 4. Before any license required by this Article shall be issued the license fee required therefor shall be paid to the Assessor and Collector of Taxes of the county where such license is applied for; and such fees, except fees for Temporary Licenses herein provided, shall be for the use and benefit of the Old Age Assistance Fund of the State of Texas. Such funds shall be transmitted by the tenth day of the month following the collection thereof to the Board and by it delivered to the State Treasurer to be placed

to the credit of the Old Age Assistance Fund.

#### "Application for License.

"Sec. 5. Any person desiring a license as manufacturer, distributor, or retail dealer may in vacation or in term time file a petition with the County Judge of the county in which the applicant desires to engage in such business which petition shall state as follows:

"If a manufacturer:

"(1) That he is a law abiding, taxpaying citizen of this State, over twenty-one (21) years of age; that he has been a resident of the county wherein such license is sought for a period of more than one year next preceding the filing of such petition; and that he has not been convicted of a felony within two (2) years immediately preceding the filing of such petition.

"(2) If a copartnership, that all of the individuals have the same qualifications as provided in paragraph (1) above.

"(3) If a corporation, that applicant is organized and chartered under, and has complied with, all corporation laws of this State applicable to such corporation, that the principal place of business is in the county where such license is sought, and the president or manager shall make an affidavit that he possesses all of the qualifications provided in paragraph (1) above.

"If a distributor, General or Local:

"(1) Applicant shall give the same information required of a manufacturer, including the place or places where his business shall be transacted and the county or counties where his sales are to be made.

"If a retail dealer:

"(1) The same information required of a manufacturer.

"(2) The correct address or premises to be used by the applicant for the sale of beer, and whether he desires to sell beer for consumption on or off the premises.

"(3) He shall enumerate the kinds of business in which he is engaged or in which he intends to engage on the licensed premises and other premises under his control of which the licensed premise is a part.

"(4) That applicant has no financial interest in any establishment authorized to sell distilled spirits.

"(5) That no person engaged in the business of selling distilled spirits has any financial interest in the business to be conducted under the license sought by the applicant.

"(6) That he has not had any interest in any license to sell beer which license has been cancelled or revoked within the twelve (12) months next preceding the date of the present application for license.

"(7) That he is not residually domiciled with any person who has any financial interest in any establishment engaged in the business of selling distilled spirits, or any person in whose name any license has been cancelled or revoked within the twelve (12) months preceding the present license.

"(8) If applicant for Retailer's License is a corporation, application shall show that the president or manager thereof has been a resident of the county wherein the license is sought for more than one year next preceding the date of the application and that no officer of the corporation is disqualified in any other manner that would prevent him from holding such license in his own name.

#### "Hearing Upon Application

"Sec. 6. The application of any person desiring to be licensed to manufacture, distribute or sell beer shall be filed in duplicate with the County Judge, who shall set same for a hearing at a date not less than five (5) nor more than ten (10) days from the filing of same.

"Upon the filing of any application for a license, the County Clerk shall give notice thereof by posting at the courthouse door a written notice of the filing of such petition, and the substance thereof, and the date of hearing upon such petition. Any citizen shall be permitted to contest the facts stated in said petition and the applicant's right to secure license upon giving security for all costs which may be incurred in such contest should this case be decided in favor of the applicant; provided, however, no officer of a county or any incorporated city or town shall be required to give bond for such costs.

"If upon hearing upon the petition of any applicant for a license, the County Judge finds the facts stated therein to be true and has no other

lawful reason for denying the application, he shall enter an order so certifying, and a copy of said order shall be delivered to the applicant; applicant shall thereupon present the same to the Assessor and Collector of Taxes of the county wherein the application is made and shall pay to the Assessor and Collector of Taxes the fee specified in this Article for the class of license applied for; the Assessor and Collector of Taxes shall thereupon report to the Texas Liquor Control Board upon a form prescribed by said Board certifying that the application for license has been approved and all required fees paid, and such other information as may be required by the Board, and to such certificates shall be attached a copy of the original application for license. Upon receiving such report or certification from the Assessor and Collector of Taxes, it shall be the duty of the Board or Administrator to issue the license accordingly, if it is found that the applicant is entitled to a license and there are no legal reasons why a license should not be issued, which license shall show the class of business the applicant is authorized to conduct, amount of fees paid, date, correct address of the place of business, and date of expiration, and such other information as the Board shall deem proper; provided, however, that the Board or Administrator may refuse to issue any such license if in possession of information from which it is determined that any statement contained in the application therefor is false, untrue, or misleading. Upon any such refusal by the Board or Administrator, applicant shall be entitled to refund of any license fee paid to the County Assessor and Collector of Taxes at the time of filing his application.

"If upon hearing upon the petition of any applicant for a license the County Judge finds any facts stated therein to be untrue, the application shall be denied; and it shall be sufficient cause for the County Judge to refuse to grant any license when he has reason to believe that the applicant will conduct his business of selling beer at retail in a manner contrary to law or in any place or manner conducive to violation of the law, or likely to result in any jeopardy to the peace, morals, health,

or safety of the general public. In the granting or withholding of any license to sell beer at retail, the County Judge in forming his conclusions shall give due and proper consideration to any recommendations made by the District or County Attorney or the Sheriff of the county, and the Mayor and Chief of Police of any incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the Board.

"In the event the County Judge, Texas Liquor Control Board or Administrator denies the application for a license, he shall enter his judgment accordingly, and the applicant may within thirty (30) days thereafter appeal to the District Court of the county where such application is made, and such District Court may hear and determine such appeal in term time or vacation in a trial de novo. It shall be incumbent upon the applicant to make the same showing in all matters to the District Judge that he is required by this Article to make to the County Judge, and the District Judge in hearing upon the appeal shall hear the cause and render judgment in like manner as required of the County Judge. Judgment of the District Court shall be final, and if the application shall be granted by final judgment, a certified copy of the judgment shall be presented to the Assessor and Collector of Taxes who shall thereupon accept the fees required and make report to the Board in the manner required upon like orders issued by the County Judge. Any person appealing from the judgment of the County Judge shall give bond for all costs incident to such appeal and shall be required to pay such costs if the judgment on appeal is unfavorable to the applicant but not otherwise.

"Every person making application for an original license of any class herein provided, except Branch Licenses and Temporary Licenses, shall be subject at the time of the hearing thereon to a fee of Five Dollars (\$5), which fee shall, by the County Clerk be deposited in the County Treasury and the applicant shall be liable for no other fees except said application fee and the annual license fee required of him by this Act.

"No person shall be authorized to sell beer during the pendency of his original application for a license, and no official shall advise or suggest that such action would be lawful or permitted.

#### "Expiration and Renewal of Licenses.

"Sec. 7. (a) Any license issued under the terms of this Article, except Branch Licenses and Temporary Licenses specifically provided for, shall terminate one year from the date issued, and no license shall be issued for a longer term than one year. Any person now holding a license to manufacture or sell beer in this State and desiring to renew the same shall before expiration of his present license, and not more than thirty (30) days prior to such expiration date, be required to make application in the manner herein provided for the primary issuance of any class of license; and when it is desired to renew any license obtained under the procedure provided in this Article, the holder of such license shall make written application to the Assessor and Collector of Taxes of the county of the Licensee's residence not more than thirty (30) days prior to the date of expiration of the license held by him. Such application for renewal shall be signed by the applicant and contain full and complete information as set out and required in any application for original license, and applicant shall pay to the Assessor and Collector of Taxes the appropriate license fee for the class of license sought to be renewed. The Assessor and Collector of Taxes shall thereupon transmit to the Board a copy of said application for renewal together with the certification that all required fees have been paid for the ensuing license period; and upon receiving the copy of said application and certification as to the payment of fees, the Board or Administrator may in its discretion issue the license applied for, or may within five (5) days after receipt of such application reject the same and require that the applicant for renewal file application with the County Judge and submit to hearing before such County Judge in the manner required of any applicant for the primary or original license. Any applicant for renewal when such re-



newal is rejected by the Board or Administrator shall be entitled to refund of any license fee paid to the County Assessor and Collector of Taxes at the time of filing his application for renewal.

"(b) Any application for renewal shall be accompanied by a fee of Two Dollars (\$2), which shall be in addition to the amount required by law to be paid for annual license fees, as a renewal fee charge. Any renewal fee charges collected by the County Assessor and Collector of Taxes shall be deposited in the County Treasury as fees of office and be so accounted for by him. No applicant for renewal of license shall be required to pay any fees other than the renewal fee charge and license fees herein provided, except when required by action of the Board or Administrator to submit to hearing upon such renewal before the County Judge.

"(c). A separate license fee shall be required for every place of business where the business of manufacturing, importing, or selling beer is conducted.

"(d). No license issued under the provisions of this Article shall be assignable by the holder thereof to any other person; provided, that should any holder of a license desire to change the place of business designated in such license, he may do so by applying to the County Judge and receiving his consent or approval as in the case of original application for license as herein provided and without being required to pay additional license fees for the remaining unexpired term of the license held by him; provided, however, that the County Judge shall not consent or approve a change of location to any place that would be barred under Section 5 of this Article from becoming a licensed premise.

"(e). No licensee shall obtain any refund upon the surrender or non-use of any license for the manufacture, distribution, importation, or sale of beer except as provided in Section 19 of this Article.

"(f). No person shall conduct as owner or part owner thereof any place of business engaged in the manufacture, distribution, importation, or sale of beer except under

the name to which the license covering such place of business is issued.

"(g). Every license issued prior to the effective date hereof authorizing the manufacture, distribution, or sale of beer shall remain in force until the date of its expiration, but the licensee thereunder shall hold such license as fully subject to all the provisions of this Act, including, but not limited to, the cancellation or suspension thereof for cause as any license that may be issued on or after the effective date hereof.

"(h). Should the license of any licensee become mutilated or destroyed the Board or Administrator may issue another license by way of replacement in any manner deemed appropriate by the Board or Administrator.

#### "Containers

"Sec. 8. It shall be unlawful for any person to sell, store, possess, or transport in this State, any beer unless it be in a container as defined in Section 1 of this Article, and every such container shall bear a brand, imprint, or label showing the full name and address of the brewer or manufacturer of such beer, or the name and address of any distributor for whom a special brand is manufactured; and in the event such beer is sold or transported in containers packed in any box, crate, carton, or similar device, the same information shall appear upon the outside of such package.

#### "Records

"Sec. 9. Every holder of a Manufacturer's or Distributor's License shall make and keep a record of each day's production or receipt of beer, the amount of stamps purchased by him, and the amount of stamps used by him; and every holder of a Manufacturer's or Distributor's License shall make and keep a record of each and every sale of beer and to whom such sale is made, and entry of every such transaction shall be made on the day it occurs; and all such licensees shall make and keep such other records as may be required to be made by the Board or Administrator. It shall be unlawful for any person to fail to make records as required herein or fail to keep such records open for inspection to the Board or its duly

authorized representatives during reasonable office hours, or to make any false entry or fail to make any entry as herein provided.

#### "Prohibited Hours

"Sec. 10. (a). It shall be unlawful for any person to sell beer or offer same for sale between the hours of 12:00 o'clock midnight and 7:00 A. M. of any day or from and after 12:00 o'clock midnight Saturday until 7:00 A. M. Monday of the following week; provided, however, that any holder of a Retail Dealer's License or a Wine and Beer Retailer's Permit shall, upon showing to the satisfaction of the County Judge that he is engaged also in the sale of food and other commodities for human consumption, and that the sale of beverages for which a license is required does not during such prohibited hours normally in the course of any one week's time amount in dollars and cents to more than the sale value of food and other commodities for human consumption sold by such licensee during such hours, be entitled without being required to pay any fee therefor, to a supplementary license authorizing him to sell such beverages during any hour of any day. Said supplementary license shall be on a form furnished by the Board or Administrator and upon being issued shall be attached to and become a part of basic license of the holder, and such supplementary license shall expire with the license of which it is a part; provided further, that the Board or its representatives may at any time make inquiry into the business of such holder; and unless it can be shown by the licensee that his sales of alcoholic beverages are not exceeding in value the sales of food and other commodities for human consumption during the hours referred to in this provision, the Board or Administrator is authorized after notice and hearing to issue an order revoking such supplementary license, and the holder of a license so revoked shall not be entitled to a supplementary license for six (6) months thereafter.

"It is provided that during the period of thirty (30) days after the effective date of this Act as to all persons authorized to sell beer at retail, and during a period of thirty (30) days after the issuance

thereof as to any new license or permit authorizing such sale (but not as to any renewal) it shall be presumed that the principal business of the licensee or permittee is not the sale of alcoholic beverages; and during such period of time as against any particular licensee or permittee the restrictions of this Section and Section 2 of this Article shall not apply.

"(b). It shall be unlawful for any person to make any sale of beer anywhere in this State on the day of any general primary election or general election held in this State between the hours of 7:00 A. M. and 8:00 P. M. of the day; provided, however, that the holder of a Manufacturer's License or a Distributor's License may make deliveries at wholesale during such hours to the bona fide holders of licenses or permits to sell beer, but shall not make any sales or deliveries to any other person.

#### "Reports of Assessor and Collector of Taxes

"Sec. 11. The Assessor and Collector of Taxes shall make statements to the Board of the amounts collected by him at the times and in the manner required by the Board or Administrator.

#### "Agent to Accept Service

"Sec. 12. Any manufacturer, distributor, or person shipping or delivering beer into this State shall file with the Secretary of State a certificate certifying the name of his agent upon whom service may be had, and his or its street address and business; and in the event such person fails to comply with this requirement within fifteen (15) days from the effective date hereof the service may be had on the Secretary of State in any cause of action arising out of the violation of this Act, and it shall be the duty of the Secretary of State to send any such citation served on him to such person, who may be in a foreign state, by registered mail, return receipt requested, and such receipt shall be prima facie evidence of service on such person.

#### "Prohibited Contributions

"Sec. 13. It shall be unlawful for any person engaged in or having

an interest in any business which manufacturers, sells, or distributes beer as defined in this Article to contribute any money or other thing of value toward the campaign expenses of any candidate for office.

#### "Word 'Saloon' Prohibited

"Sec. 14. It shall be unlawful for any person to use the word 'saloon' in any manner printed, painted, or placed upon the door, window, or any other public place on or about his premises or in any advertisement.

#### "Restrictions on Consumption

"Sec. 15 (a) It shall be unlawful for any licensee to permit any beer to be consumed on the premises where sold unless he is the holder of a license authorizing the sale of beer for consumption on said premises, and it shall be unlawful for any licensee or the agent, servant or employee of any licensee to possess on the premises covered by a license of such licensee any alcoholic beverage that is not authorized by law to be sold for consumption on such premises."

"(b). It is hereby provided that hotels authorized by law and holding permit to sell distilled spirits in unbroken packages shall not thereby be disqualified from obtaining a license to sell beer for consumption on the premises where sold.

#### "Sale of Stock After License Cancelled

"Sec. 16. In the event the license of any licensee hereunder is cancelled or forfeited under the provisions of this Act, the licensee shall nevertheless be authorized to, within thirty (30) days thereafter, sell or dispose of in bulk any stock of beer he may have on hand at the time of such cancellation or forfeiture of license.

#### "Blinds and Barriers

"Sec. 17. It shall be unlawful for any person to install or maintain any barrier or blind in the openings or doors of any retail establishment whose principal business is the sale of beer, nor shall any windows on said establishment be painted in such a way as to obstruct the view from the general public at or above a

height of fifty-four (54) inches above the ground or sidewalk outside and beneath such window. The sale of beer shall be deemed to be the principal business of any licensee unless he is the holder of a Supplementary License as provided in Section 10 of this Article.

#### "Refunding Fee for Unexpired Term

"Sec. 18. In all cases where any person pursuing the occupation of selling beer, as herein defined, under licenses issued in accordance with the laws of this State, has been or shall hereafter be prevented from pursuing such occupation for the full time to which he would be otherwise entitled, by reason of the adoption of local option in any county or subdivision thereof, the proportionate amount of license fees paid by him covering the unexpired term shall be refunded to him. So much of the proceeds so derived under the provisions of this Article as may be necessary, not to exceed two (2) per cent thereof, are hereby appropriated for that purpose.

#### "Cancellation of License

"Sec. 19. The Board or Administrator shall have the power and authority to cancel the license of any person authorized to sell beer after notice and hearing as herein provided upon finding that the licensee has:

"If a Retailer:

"(a) Knowingly sold beer to any person under the age of twenty-one (21) years; or

"(b) Sold beer to any person showing evidence of intoxication; or

"(c) Sold beer during any hours when such sale was forbidden by law; or

"(d) Possessed or permitted to be possessed by his agents or servants (except as to hotels authorized to sell distilled spirits) on premises covered by his license or on premises adjacent thereto and directly or indirectly under his control any alcoholic beverage that he is not authorized by law to sell at the place of business covered by the license sought to be cancelled by the Board or Administrator; or

"(e) Permitted at his place of business any conduct by any person whatsoever that is lewd, immoral, or offensive to public decency; or

"(f) Employed any person under the age of eighteen (18) years to sell, handle, or dispense or to assist in selling, handling, or dispensing beer in any establishment where beer is sold at retail to be consumed on the premises where sold; or

"(g) Made any false or untrue statements in his application for license; or

"(h) Conspired with any person to violate any of the provisions of Section 25 of this Article or accepted the benefits of any act prohibited by such Section; or

"(i) Refused to permit or interfere with an inspection of the licensed premises by any authorized representative of the Board; or

"(j) Contributed money or other thing of value toward the campaign expenses of any candidate for office; or

"(k) Permitted his license to be used in the operation of a business conducted for the benefit of any person not authorized by law to have an interest in said license; or

"(l) Maintained blinds or barriers at his place of business in violation of the law; or that

"(m) Such licensee (or, if a corporation, any officer thereof) is financially interested in any place of business engaged in the selling of distilled spirits or has permitted any other person who has a financial interest in any place of business engaged in the sale of distilled spirits to be interested financially in the business authorized by the license sought to be cancelled; or

"(n) That the holder of the license sought to be cancelled (or, if a corporation, any officer thereof) is residentially domiciled with or so related to any person engaged in the sale of distilled spirits that there is a community of interest which the Board or Administrator may deem inimicable to the purposes of this Act, or is so related to any person in whose name any license has been cancelled or revoked within the twelve (12) months next preceding any date fixed by the Board or Administrator for hearing upon a motion to cancel or revoke the existing license; or

"(o) That the licensee has violated any provision of this Act or any rule or regulation of the Board at any time during the existence of

the license sought to be cancelled or within the next preceding license period of any license held by the licensee;

"(p) In addition to the causes for cancellation hereinbefore set out, the Board or Administrator shall cancel the license of any retailer upon satisfactory proof that the licensee has been finally convicted for the violation of any penal provisions of this Article.

"Provided, however, that no license authorizing the retail sale of beer in a hotel shall be cancelled for the causes specified in the foregoing paragraphs (m) and (n) in those cases where there is a place of business authorized to sell distilled spirits in unbroken packages on premises of the hotel other than that part of such premises covered by the Retail Beer Dealer's License.

"If a Distributor:

"(a) Violated any of the provisions of Section 25 of this Article; or

"(b) Imported into this State any beer without first having obtained a Distributor's License; or

"(c) Failed to comply with all lawful requirements of the Board as to keeping of records and making of reports; or

"(d) Failed to pay any taxes due to the State as provided in this Article on any beer sold, stored, or transported by the licensee; or

"(e) Refused to permit or interfered with an inspection of his licensed premises or books and records by any authorized representative of the Board; or

"(f) Consummated any sales of beer outside the county or counties in which his license authorizes him to sell; or

"(g) That the licensee has violated any provision of this Act or any rule or regulation of the Board at any time during the existence of the license sought to be cancelled or within the preceding license period of any license held by the licensee.

"If a Manufacturer:

"The Board or Administrator shall have the power and authority to suspend after notice and hearing the license of any manufacturer to sell beer in this State, when such licensee does business in violation of the provisions of this Act or rules and regulations of the Board, until said licensee obeys all lawful orders

of the Board or Administrator requiring such licensee to cease and desist from such violations.

"Any Act of omission or commission enumerated herein as cause for the cancellation or suspension of any type of license shall also be a violation of this Act and subject to the penalties provided in Section 27 of this Article.

#### "Hearings

"Sec. 20. The Board or Administrator shall have the power and authority upon its own motion, and it is hereby made its duty upon petition of any County Judge, County Attorney, or Sheriff of a county, or the Mayor or Chief of Police of any incorporated city or town wherein may be located the place of business of the licensee complained of in such petition, to fix a date for hearing, and give notice thereof to any licensee complained of for the purpose of determining whether or not the license of such licensee is to be cancelled by the Board and notify such licensee that he may appear to show cause why such license should not be cancelled or revoked. The Board or Administrator is authorized and empowered to cancel the license of any licensee upon determining after hearing that the holder thereof has given cause for such cancellation in any manner enumerated in Section 20 of this Article.

#### "Suspension of License

"Sec. 21. The Board or Administrator shall have the power and authority to suspend for a length of time not exceeding thirty (30) days the license of any retail beer dealer upon ascertaining that any act constituting a breach of the peace has occurred upon the premises covered by the license of such retail dealer or under his control, and at the expiration of the date to which such license has been suspended the Board or Administrator shall cancel the license unless it shall have been shown to the satisfaction of the Board or Administrator that the act was beyond the control of the person holding the license and did not result from improper supervision by the licensee of the conduct of persons permitted by him to be on the licensed premises or premises under his control.

"Sec. 22. Any order of the Board or Administrator cancelling a license shall have the effect that it shall immediately be unlawful, after notice thereof is given, for the holder of such cancelled license to sell beer for a period of one year thereafter except during the period that the order of cancellation is superseded pending trial, or unless he shall prevail in any final judgment rendered upon appeal as herein provided. Appeals from decisions or orders of the Board or Administrator cancelling or refusing a license may be had under the same conditions and provisions prescribed in Section 15 of Article I of this Act.

"No appeal shall lie from an order of suspension of license. No suit of any nature shall be maintained in any Court in this State seeking to restrain the Board or Administrator or any other officer from enforcing any order of suspension issued by the Board or Administrator; and if at any hearing thereon it be shown to the satisfaction of the Board or Administrator that any alcoholic beverage was sold on or from the premises covered by a license during the period of suspension, then such proof shall be sufficient to warrant cancellation of the license.

"The cancellation or suspension of any license shall not excuse nor relieve the violator from the penalties provided in this Article.

#### "Beer Tax; Stamps

"Sec. 23. (a) There is hereby levied and assessed a tax at the rate of One Dollar and Twenty-four Cents (\$1.24) per barrel on all beer sold, stored, distributed, transported, or held for the purpose of sale in this State whether manufactured in or imported into this State. Said tax shall be paid and evidenced by placing stamps, which the State Treasurer is herein authorized to provide in the denominations required, on each original package as defined in this Article; provided, further, that at the time said stamp is affixed the person affixing the stamp shall with indelible ink or stamp cancel the same by placing the date and the licensee's full name or initials upon said revenue stamp.

"(b) It is the purpose and intent of this Act to require the tax to be paid and the stamp evidencing same

to be affixed on the first sale, distribution, storage, or transportation and at the source, to the end that it will preclude any person evading the payment of this tax. Any person in possession of beer that has not been stamped in accordance with the provisions hereof shall be held to be in violation of this Article and liable for the taxes herein provided and the penalties for such violation.

"(c) On beer imported into this State the duty of payment of the tax and affixing and cancelling the stamp as required herein shall rest primarily upon the importer, and it is hereby declared to be unlawful to import beer into this State unless and until said tax has first been paid and the stamp evidencing such payment has been first affixed and cancelled as required by this Act. It is provided, however, that a holder of a manufacturer's license who imports beer into this State for rebottling purposes shall not be required to affix the State tax stamps to the container in which he receives the same, and that the same may be transported, delivered and stored by him without the State tax stamps being affixed to the containers thereof, but in all instances where beer is imported into this State for rebottling purposes the importer thereof shall be required by rule and regulation of the Board to make and keep such records and submit such reports as may be required, to the end that it will preclude any person from evading the payment of the proper tax.

"(d) On beer manufactured in this State the duty of paying the tax and affixing and cancelling the stamp as required herein shall rest primarily upon the manufacturer, and it is hereby declared to be unlawful for any manufacturer to transport any beer or to deliver to any person any beer to be transported away from the brewery of said manufacturer unless and until tax has first been paid and the tax stamp evidencing such payment has been first affixed and cancelled as required by this Act; provided, however, that no person holding a Manufacturer's License in this State shall be required to affix stamps on any containers of beer stored in the brewery where same is brewed or being transported therefrom to a point outside of this State.

"(e) Tax stamp of proper denomination shall be placed on each original package as herein defined upon which the stamp is required to be affixed, in such a way that the original package cannot be conveniently and practically opened without mutilating or defacing said stamp; provided, however, that as to packages where this requirement is in the judgment of the Board impractical the Board shall have authority by regulation to require the affixing of the stamp in any manner it may deem necessary for the protection of the revenue due to the State.

"(f) It shall be unlawful to transport to destinations in this State any beer upon which tax has not been paid and such payment evidenced by stamps affixed and cancelled as required by law.

"(g) If any person has paid the tax on any beer and affixed tax stamps to the containers thereof and thereafter said beer is shipped out of Texas for consumption, a claim for refund may be made upon paying a fee of Five Dollars (\$5) to the Board at the time and in the manner prescribed by the Board or Administrator. So much of any funds derived hereunder as may be necessary, not to exceed two (2) per cent thereof, is hereby appropriated for such purpose. The Board may promulgate rules and regulations generally for the enforcement of this provision.

"(h) No bottled beer shall be stored in this State except it be in a container or original package bearing the proper tax stamp, unless the same is exposed for sale by a retailer or is being cooled for sale by a retailer, except when the same is legally in the possession of the ultimate consumer.

"(i) Except as may be otherwise provided by rule and regulation of the Board no person shall be authorized to purchase any beer tax stamps herein provided unless he is the holder of a Manufacturer's or Distributor's License; provided however, that the holder of a Manufacturer's or Distributor's License may designate as his agent for the purchase of stamps any manufacturer or wholesaler located outside the State whose products are imported into this State by the holder of such license; and the State Treasurer shall make

no sale of beer tax stamps to any person not authorized to purchase same.

"(j) The Board shall from time to time inspect the records of manufacturers, importers, or distributors to ascertain whether there has occurred any evasion of the tax imposed by this Article upon beer sold, stored, distributed, transported, or held for the purpose of sale in this State. It is hereby declared to be the law that as to all beer sold, stored, distributed, transported or held for the purpose of sale in this State and for which the tax has not been paid and evidenced as required by law prior to the first such act, the tax hereby imposed shall be double the amount of tax required to be paid upon beer that is stamped before its first sale, storage, distribution, or transportation in this State; and any person who shall sell, store, distribute, transport, or hold for purpose of sale any unstamped beer shall be in violation of the law and may be held liable for the tax that may be found to be due to the State. Any receipts or sales or record of receipt or sales of beer by any person in quantity exceeding the amount of beer for which tax stamps have been purchased by such person from the Board shall be prima facie evidence of the sale of beer without payment of the tax thereon.

"(k) It shall be unlawful for any person to open any container of beer having a stamp thereon without then and there mutilating or otherwise defacing such stamp so that it cannot be again used; and

"(l) It shall be a violation of law for any person to attach to any container of beer or to possess any stamp that has been theretofore attached to a different container, or to use for the packing of beer or to possess for such purpose any container bearing a stamp that has theretofore been used for the delivery of beer unless the stamp required by law to cover the previous sale or delivery has thereafter been defaced, mutilated, or removed.

"(m) Any payment of taxes upon beer found to have been sold, stored, or transported before payment thereof, voluntarily or as a result of seizure and sale shall not excuse any person from penalties provided for failure to pay taxes and evidence such payment by the application of stamps as required in this Article.

#### "Marketing Practices

"Sec. 24. (1) It shall be unlawful for any manufacturer or distributor directly or indirectly or through a subsidiary or affiliate, any agent or any employee, or by any officer, director, or firm member:

"(a) Ownership of Interest or Real Estate: To own any interest in the business of any retail dealer in beer, or any interest of any kind in the premises in which any such retail dealer conducts his or its business.

"(b) Retail Licenses: To hold the ownership or any interest in any license to sell brewery products for consumption on the premises covered by such license, except the license of manufacturers to dispense their own products on the brewery premises.

"(c) Loans and Guaranties: To furnish, give or lend any money or other thing of value, except signs, or to extend unusual credit terms, to any person engaged in selling brewery products for consumption on or off the premises where sold, or to any person for the use, benefit, or relief of said person engaged in selling as above or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged in selling beer at retail. The extension of credit for longer period of time than is generally extended to regular customers of a manufacturer or distributor covering the purchase of brewery products from such manufacturer or distributor shall be deemed unusual credit terms.

"(d) Consignment Sales: To make any delivery of beer under any agreement, arrangement, condition, or system whereby the person receiving the same has the right at any time to relinquish possession to or return same to the shipper, or whereby the title to such beer remains in the shipper; or to make any delivery of beer under any agreement, arrangement, condition, or system whereby the person designated as the receiver merely acts as an intermediary for the shipper or seller and the actual receiver, including any delivery of beer to a factor or broker; or to employ any other method whereby any person is placed in actual or constructive possession of beer without acquiring title thereto, or whereby any person designated

by the shipper or seller as the purchaser did not in fact purchase the same, or to make any other kind of transaction which in law may be construed as a consignment sale.

"(e) Equipment and Fixtures: To furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to any person engaged in selling brewery products for consumption on the premises where sold. This Subsection does not apply to such equipment, fixtures, or supplies furnished, given loaned, rented, or sold prior to November 16, 1935, except that such transactions made prior to this date are not to be used as a consideration for an agreement thereafter made respecting the purchase of brewery products; provided that equipment, fixtures, or supplies furnished, given, rented, loaned, or sold to any person engaged in selling brewery products for consumption on the premises where sold, prior to November 16, 1935, when removed from the premises of such person or repossessed by any manufacturer or distributor of brewery products or by his agents or employees, shall not again be furnished, given, rented, loaned, or sold to any person engaged in the sale of brewery products for consumption on the premises where sold.

"(f) Allowances and Rebates for Advertising and Distribution Service: To pay or to make any allowance to any buyer for a special advertising or distribution service, (1) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (2) unless such service is rendered and the payment is reasonable and not excessive in amount; and (3) unless such contract is separate and distinct from any sales contract; and (4) unless such payment is equally available for the same service to all competitive buyers in the same class in the same trade area; or (5) where the result of any allowance, rebate, or payment results in the retailer giving to any manufacturer or distributor any advantage as to the sale of beer distributed by such manufacturer or distributor.

"(g) Prizes and Premiums: To offer any prize, premium, gift, or other similar inducement, except advertising novelties of nominal value, to any dealer in or consumer of brewery products.

"(h) Advertising: To publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical or other publication or by any sign or outdoor advertisement or any other printed or graphic matter any advertisement of any brewery product, if such advertisement causes, or is reasonably calculated to cause, deception of the consumer with respect to the product advertised. An advertisement shall be deemed misleading if it is untrue in any particular or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression. Any advertisement of or reference to alcoholic content of any brewery product or any advertisement disparaging of a competitor's products, or that is obscene or indecent, shall be unlawful.

"(i) Misbranding: To sell or otherwise introduce into commerce any brewery product that is misbranded. A product is misbranded:

"(1) Food and Drug Act Requirement—If it is misbranded within the meaning of the Food and Drug Act.

"(2) Standards of Fill—If the container is so made, formed, or filled as to mislead the purchaser, or if its contents fall below the recognized standards of fill.

"(3) Standards of Quality—If it misrepresents the standard of quality of products in the branded container.

"(4) Labels—If it is so labeled that it purports to be any product other than is actually in the container.

"(j) Exclusive Outlet: To require, by agreement or otherwise, that any retailer engaged in the sale of brewery products shall purchase any such products from such persons to the exclusion in whole or in part, of the products sold or offered for sale by any other person engaged in the manufacture or distribution of brewery products, or to require the retailer to take or dispose of a certain quota of any such product.

"(k) Commercial Bribery: To give or permit to be given money or anything of value in an effort to induce agents, employers, or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase brewery prod-



ucts from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting with competitors.

"(1) Returnable Container: It shall be unlawful for any manufacturer to accept as a return or to purchase or use any barrel, half-barrel, keg, case, or bottle permanently branded or imprinted with the name of another manufacturer.

"(m) Labeling: To manufacture or sell or otherwise introduce into commerce in this State any brewery product unless it bear a label showing in plain, legible type the name and address of the manufacturer and the name of the distributor for whom any special brand is manufactured, the brand or trade name, and the net content of the bottle in terms of United States liquid measure; or to manufacture or sell, or otherwise introduce into commerce in this State any beer or container or dispensing equipment, carton, or case for beer bearing a label or imprint which by wording, lettering, numbering, or illustration, or in any other manner carries any reference or illusion or suggestion to the alcoholic strength of the product or to any manufacturing process, ageing, analysis, or scientific matter or fact, or upon which appears any such words or combination of words or abbreviations thereof, as 'strong,' 'full strength,' 'extra strength,' 'high test,' 'high proof,' 'prewar strength,' 'full old time alcoholic strength,' or any words or figures or other marks or characters alluding or relating to 'proof,' 'balling' or extract, contents of the product, or which bears a label that is untrue in any particular or which directly or by ambiguity, omission, or inference tends to create a misleading impression or causes, or is reasonably calculated to cause deception of the consumer or buyer with respect to the product.

"(2) It shall be unlawful for any retail dealer to dispense any draft beer unless each faucet or other dispensing apparatus is equipped with a sign clearly indicating the name or the brand of the particular product being at the time dispensed through each faucet or other apparatus, which sign shall be in legible lettering and in full sight of the purchaser.

"(3) In addition to other power

and authority granted by this Act to the Board or Administrator, said Board shall have the power and authority upon finding it necessary to effectuate the purposes of this Article to adopt rules and regulations to provide a schedule of deposits required to be obtained on any beer containers delivered by any licensee, and any violation of any such regulation shall be unlawful.

"(4) Provided that if any provision of this Section 24 is for any reason held unconstitutional and invalid, such decision shall not affect the validity of the remaining portions, and the Legislature hereby declares that it would have passed this Section, and each subsection, provision, sentence, clause, or phrase thereof, irrespective of the fact that any provision is declared unconstitutional.

#### "Transportation of Beer

"Sec. 25. (a) It is hereby declared to be lawful to transport beer, as herein defined, and upon which the tax has been paid and evidenced by stamps as required by law, from any place in this State where the sale, manufacture, and distribution of said beer is authorized by law to any other place within this State where the same may be lawfully manufactured, sold, or distributed; and from the State boundary to any such place, even though in the course of such transportation the route over which the same is being transported may traverse local option territory in which the manufacture, sale, and distribution of said beer is prohibited. Provided, however, that any such shipments must be accompanied by a written statement furnished and signed by the shipper, showing the name and address of the consignor and the consignee, the origin and destination of such shipment, and such other information as may be required by the Board or Administrator; and it shall be the duty of the person in charge of such cargo while it is being so transported to exhibit such written statement to any representative of the Board or any peace officer making demand therefor, and said statement shall be accepted by such officer as prima facie evidence of the lawful right to transport such beer. The transportation of beer not accompanied by state-

ment herein required, or failure to exhibit the same upon lawful demand, shall be a violation of this Act and any beer being transported in violation hereof shall be subject to seizure without warrant.

"(b) Possession by any person in any dry area of beer in any quantity exceeding twenty-four (24) bottles having a capacity of twelve (12) ounces each shall be prima facie evidence of possession for the purpose of sale in a dry area.

#### "Penalty

"Sec. 26. Any person who violates any provision of this Article shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500) or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

"It is provided, however, that in cases where the Administrator or the Board in writing recommends acceptance of a plea of guilty, and such plea is accepted, the decree of the Court and assessment of penalty shall not require cancellation of a license as provided in Section 20 (q) of this Article, but shall leave the question of cancellation of license in such cases to the discretion of the Board or Administrator, having in mind the purposes of this Act.

"Sec. 27. Upon having called to his attention by affidavit of any credible person that any person is violating, or is about to violate, any of the provisions of the Texas Liquor Control Act or if any permit or license was wrongfully issued, it shall be the duty of the Attorney General, or the District or County Attorney to begin proceedings to restrain any such person from the threatened or any further violation, or operation under such permit or license, and the District Judge shall have authority to issue restraining orders without hearing, and upon notice and hearing to grant injunction, to prevent such threatened or further violation by the person complained against, and may require the person complaining to file a bond in such amount and containing such conditions and in such cases as the Judge may deem necessary. Upon any judgment of the Court that violation

of any restraining order or injunction issued hereunder has occurred, such judgment shall operate to cancel without further proceedings, any license or permit held by the person who is defendant in the proceedings, and no license or permit shall be reissued to any person whose license or permit has been so cancelled, revoked, or forfeited within one year next preceding the filing of his application for a new license or permit. It shall be the duty of the District Clerk to notify the County Judge of the county wherein was issued any license or permit so cancelled, and to notify the Board of any judgment of a court which may operate hereunder to cancel a license or permit."

Sec. 51. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in either Article I or II of this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

Sec. 52. The fact that the present law is inadequate to deal with many phases of liquor control, and the further fact that there exists some conditions requiring immediate correction in the public interest, create an emergency and an imperative public necessity that the Constitutional Rule requiring all bills to be read on three several days in each House be suspended, and such Rule is hereby suspended, and this Act shall take effect and be in force from and after September 1, 1937, and it is so enacted.

Question—Shall the report be adopted?

The report was adopted by the following vote:

Yeas—18.

Aikin	Neal
Beck	Nelson
Burns	Oneal
Collie	Pace
Cotten	Redditt
Head	Small
Hill	Van Zandt
Isbell	Westerfeld
Lemens	Woodruff

## Nays—10.

Brownlee	Spears
Holbrook	Stone
Moore	Sulak
Rawlings	Weinert
Shivers	Winfield

## Absent.

Roberts

## Absent—Excused.

Davis                      Newton

Free Conference Committee on  
House Bill No. 1148.

Senator Redditt moved that the request of the House for a free conference committee to adjust the differences between the two Houses on H. B. No. 1143 be granted.

The motion prevailed.

Accordingly, the President announced the appointment of the following conferees on the bill on the part of the Senate:

Senators Redditt, Van Zandt, Pace, Burns, and Shivers.

## Recess.

On motion of Senator Neal, the Senate, at 5:45 o'clock p. m., took recess to 8:15 o'clock p. m. today.

## Night Session.

The Senate met at 8:15 o'clock p. m. and was called to order by the President.

House Bill No. 704 on Second  
Reading.

On motion of Senator Aikin, and by unanimous consent, the regular order of business was suspended to take up and have placed on its second reading and passage to third reading:

H. B. No. 704, A bill to be entitled "An Act conferring jurisdiction upon the County Court of Gillespie County in probate matters and general jurisdiction over estates and transferring the jurisdiction of said court over civil and criminal cases to district court of said county, and conforming the jurisdiction of the district court to such change, and declaring an emergency."

The President laid the bill before the Senate.

On motion of Senator Aikin and by unanimous consent, Senate Rule No. 31a was suspended, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 704 on Third  
Reading.

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 704 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—29.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

## Absent—Excused.

Newton                      Oneal

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

## Yeas—29.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

## Absent—Excused.

Newton                      Oneal

**House Bill No. 1114 on Second Reading.**

On motion of Senator Brownlee, and by unanimous consent, the regular order of business was suspended to take up and have placed on its second reading and passage to third reading:

H. B. No. 1114, A bill to be entitled "An Act making it unlawful for any person to catch or take or attempt to take or catch catfish of less length than nine (9) inches in Burnet County; providing a penalty, and declaring an emergency."

The President laid the bill before the Senate, it was read second time and was passed to third reading.

**House Bill No. 1114 on Third Reading.**

Senator Brownlee moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1114 be placed on its third reading and final passage.

The motion prevailed by the following vote:

**Yeas—29.**

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

**Absent—Excused.**

Newton                      Oneal

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed.

**House Bill No. 1149 on Second Reading.**

On motion of Senator Burns, and by unanimous consent, the regular

order of business was suspended to take up and have placed on its second reading and passage to third reading:

H. B. No. 1149, A bill to be entitled "An Act providing the open season for taking mourning doves in Grimes, Madison and Leon Counties; providing a bag and possession limit for such birds; providing a penalty; repealing all laws in so far as they conflict with this Act, and declaring an emergency."

The President laid the bill before the Senate, it was read second time and was passed to third reading.

**House Bill No. 1149 on Third Reading.**

Senator Burns moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1149 be placed on its third reading and final passage.

The motion prevailed by the following vote:

**Yeas—29.**

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

**Absent—Excused.**

Newton                      Oneal

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed.

**House Bill No. 647 on Second Reading.**

On motion of Senator Collie, and by unanimous consent, the regular order of business was suspended, to take up and have placed on its sec-

ond reading and passage to third reading:

H. B. No. 647, A bill to be entitled "An Act granting permission to Mrs. Cora Mills, Mrs. Elzine Kinsey and husband, Loyd Kinsey, and Mrs. Marie Fouts and husband, Aubrey Fouts, to bring suit against the State of Texas and/or Highway Department of the State of Texas, in a court of competent jurisdiction for damages for personal injuries received by Ed Mills which said injuries are alleged to have resulted in his death, and which said injuries were received by the said Ed Mills while on duty in the employ of the State Highway Department of the State of Texas; providing that any judgment recovered be paid out of the funds of the Highway Department of the State of Texas; providing that if any provisions of this Act shall be invalid, the validity of the other provisions thereof shall not be affected, and declaring an emergency."

The President laid the bill before the Senate.

On motion of Senator Collie; and by unanimous consent, Senate Rule No. 31a was suspended, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

#### House Bill No. 647 on Third Reading.

Senator Collie moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 647 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29.

Aikin	Moore
Beck	Neal
Brownlee	Nelson
Burns	Pace
Collie	Rawlings
Cotten	Redditt
Davis	Roberts
Head	Shivers
Hill	Small
Holbrook	Spears
Isbell	Stone
Lemens	Sulak

64—Jour.

Van Zandt  
Weinert  
Westerfeld

Winfield  
Woodruff

Absent—Excused.

Newton

Oneal

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed.

#### House Concurrent Resolution No. 101.

On motion of Senator Davis and by unanimous consent, the regular order of business was suspended, to take up for consideration at this time:

H. C. R. No. 101, Granting permission to the heirs of William F. Bickenback, deceased, to sue the State and the State Highway Department for damages to person.

The President laid the resolution before the Senate.

The following (committee) amendment to the resolution was adopted:

Amend H. C. R. No. 101, by striking out all of Paragraph 3 on page 2 of the engrossed copy and inserting in lieu thereof the following:

"Whereas, It is the desire of the Legislature of the State of Texas to here give the consent of the State of Texas to such suit, and to provide for payment of damages if, as, and when finally ascertained; therefore"

The resolution as amended was adopted.

#### House Concurrent Resolution No. 136.

On motion of Senator Head and by unanimous consent, the regular order of business was suspended, to take up for consideration at this time:

H. C. R. No. 136, To grant W. T. Caswell of Travis County, Texas, permission to sue the State of Texas and the Attorney General's Department in behalf of himself and the partnership, Reed and Caswell of Travis County.

The President laid the resolution before the Senate, and it was adopted.

**House Bill No. 1111 on Second Reading.**

On motion of Senator Hill and by unanimous consent, the regular order of business was suspended, to take up and have placed on its second reading and passage to third reading:

H. B. No. 1111, A bill to be entitled "An Act amending Subsection 2 of Article 3902, Revised Civil Statutes of Texas, 1925, as amended by Acts of the Forty-first Legislature, First Called Session, Chapter 92; as amended by Acts of the Forty-second Legislature, Chapter 214; as amended by Acts of the Forty-third Legislature, Chapter 220, paragraph 3; as amended by Acts of the Forty-third Legislature, Second Called Session, Chapter 59, paragraph 2; as amended by Acts of the Forty-third Legislature, Third Called Session, Chapter 63, paragraph 1; as amended by Acts of the Forty-fourth Legislature, Chapter 282, paragraph 1; etc., and declaring an emergency."

The President laid the bill before the Senate, it was read second time and was passed to third reading.

**House Bill No. 1111 on Third Reading.**

Senator Hill moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1111 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

Absent.

Newton

Oneal

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

**House Bill No. 1173 on Second Reading.**

On motion of Senator Holbrook and by unanimous consent, the regular order of business was suspended, to take up and have placed on its second reading and passage to third reading:

H. B. No. 1173, A bill to be entitled "An Act applicable to the Counties of Mason, Menard, Kerr, Schleicher, Crockett, Sutton, Kimble, Bandera, Real, Edwards, Blanco, Llano, Kendall, Gillespie, El Paso, Hudspeth, Culberson, Val Verde, Kinney, Maverick, Terrell, Brewster, Hays, Caldwell, Harris, Bexar, Wood, Webb, State of Texas; requiring a resident hunting license of any resident citizen of this State hunting in said counties with certain exemptions; requiring a resident fishing license of any resident citizen of this State fishing in said counties, with certain exemptions; requiring operators of shooting preserves to act as agents of the Game, Fish and Oyster Commission and to remit to said Commission 10 per cent of all amounts collected for shooting privileges; defining a shooting preserve operator; requiring a report from such operators; providing for the remittance to the Game, Fish and Oyster Commission of all funds collected under the provisions of this Act and providing

for the disposition of same; providing suitable penalties for violation of any provision of this Act; repealing all laws, in so far as they conflict with any provision of this Act; providing the rule of construction, and declaring an emergency."

The President laid the bill before the Senate, and it was read second time.

Senator Moore offered the following amendments to the bill:

## (1)

Amend H. B. 1173 by adding to Section 3 thereof:

"No fishing license shall be required of any person to fish in salt waters other than such as may now be required by law."

## (2)

Amend H. B. 1173 by adding to the caption in an appropriate place therein the following:

"providing that no such fishing license shall be necessary in salt water."

The amendments were adopted severally.

H. B. No. 1173 was passed to third reading.

### House Bill No. 1173 on Third Reading.

Senator Holbrook moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1173 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Woodruff
Nelson	

Nays—1.

Winfield

Absent—Excused.

Davis	Oneal
Newton	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed.

### Report of Conference Committee on House Bill No. 1053 Adopted.

Senator Neal moved that the report of the Free Conference Committee on H. B. No. 1053, heretofore submitted, be adopted.

The motion prevailed by the following vote:

Yeas—17.

Aikin	Lemens
Beck	Neal
Brownlee	Nelson
Burns	Pace
Cotten	Spears
Head	Weinert
Hill	Westerfeld
Holbrook	Winfield
Isbell	

Nays—2.

Moore	Shivers
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Present—Not Voting.

Collie	Small
Rawlings	Van Zandt
Redditt	Woodruff
Roberts	

Absent.

Stone	Sulak
-------	-------

Absent—Excused.

Davis	Oneal
Newton	

### House Bill No. 932 on Second Reading.

On motion of Senator Nelson, and by unanimous consent, the regular order of business was suspended to take up and have placed on its second reading and passed to third reading:

H. B. No. 932, A bill to be entitled "An Act to fix the salaries and compensation of county commissioners in counties with a taxable valuation

of not less than Forty-seven Million, One Hundred Thousand (\$47,100,000.00) Dollars nor more than Forty-eight Million, One Hundred Thousand (\$48,100,000.00) Dollars taxable valuation according to the valuation as shown on the county tax assessor's rolls for county purposes, and providing for payment of such salaries and the funds from which such salaries shall be paid and repeal all laws in conflict herewith, and declaring an emergency."

The President laid the bill before the Senate.

On motion of Senator Nelson, and by unanimous consent, Senate Rule No. 31a was suspended, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

#### House Bill No. 982 on Third Reading.

Senator Nelson moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 932 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28.

Aikin	Brownlee
Beck	Burns

Collie	Redditt
Cotten	Roberts
Head	Shivers
Hill	Small
Holbrook	Spears
Isbell	Stone
Lemens	Sulak
Moore	Van Zandt
Neal	Weinert
Nelson	Westerfeld
Pace	Winfield
Rawlings	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

#### House Concurrent Resolution No. 97.

On motion of Senator Rawlings, and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

H. C. R. No. 97, Granting Creed M. Click, Jr., permission to sue the State of Texas and/or the Highway Department for personal damages.

The President laid the resolution before the Senate and it was adopted.

#### House Bill No. 1124 on Second Reading.

On motion of Senator Redditt, and by unanimous consent, the regular order of business was suspended to take up and have placed on its second reading and passage to third reading:

H. B. No. 1124, A bill to be entitled "An Act repealing House Bill No. 185, Acts of the Forty-third Legislature, relating to the hunting, taking, or killing of squirrels in the counties of San Augustine and Sabine, Texas."

The President laid the bill before the Senate, it was read second time and was passed to third reading.

#### House Bill No. 1124 on Third Reading.

Senator Redditt moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1124 be placed on its third reading and final passage.

The motion prevailed by the following vote:



## Yeas—28.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

## Yeas—28.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

## House Bill No. 820 on Second Reading.

On motion of Senator Spears, and by unanimous consent, the regular order of business was suspended to take up and have placed on its second reading and passage to third reading:

H. B. No. 820, A bill to be entitled "An Act to authorize certain cities, towns, counties and other public bodies to aid housing projects of housing authorities or of the United States of America by furnishing

parks, playgrounds, streets and other improvements and facilities, by exercising certain other powers and by making agreements relating to such aid; to authorize cities, towns, counties, and other political subdivisions to contract with respect to the sums to be paid them for improvements, services and facilities to be provided for the benefit of housing projects; to require certain cities and counties to make an appropriation for the first year's administrative expenses of housing authorities; and to authorize certain cities, towns and counties to lend moneys to housing authorities, and declaring an emergency."

The President laid the bill before the Senate, it was read second time and was passed to third reading.

## House Bill No. 820 on Third Reading.

Senator Spears moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 820 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—28.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

## Yeas—28.

Aikin	Brownlee
Beck	Burns

Collie	Redditt
Cotten	Roberts
Head	Shivers
Hill	Small
Holbrook	Spears
Isbell	Stone
Lemens	Sulak
Moore	Van Zandt
Neal	Weinert
Nelson	Westerfeld
Pace	Winfield
Rawlings	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

**House Bill No. 427 on Second Reading.**

On motion of Senator Westerfeld, and by unanimous consent, the regular order of business was suspended to take up and have placed on its second reading and passage to third reading:

H. B. No. 427, A bill to be entitled "An Act authorizing and empowering the commissioners' court in counties having a population of more than three hundred thousand (300,000) and less than three hundred and fifty thousand (350,000) inhabitants according to the preceding Federal Census, to purchase fire trucks and other fire fighting equipment for the protection and preservation of bridges, warehouses, shops and other property located without the limits of any incorporated city or town and authorizing and empowering the commissioners' court to enter into contracts with any centrally located city in the county for the operation and maintenance of any such fire trucks and equipment and providing that the provisions of this Act are cumulative of all of the laws other than Special Laws and providing that in the event any section, subdivision, paragraph, sentence, or clause be held unconstitutional, that the remaining portions thereof shall be valid, and declaring an emergency."

On motion of Senator Westerfeld, and by unanimous consent, Senate Rule No. 31a was suspended to permit consideration of the bill at this time.

The President laid the bill before the Senate, it was read second time and was passed to third reading.

**House Bill No. 427 on Third Reading.**

Senator Westerfeld moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 427 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

**House Bill No. 503 on Second Reading.**

On motion of Senator Brownlee and by unanimous consent, the reg-

ular order of business was suspended, to take up and have placed on its second reading and passage to third reading:

H. B. No. 503, A bill to be entitled "An Act repealing Section 6, Article 923qa-4 of the Penal Code of Texas so as to exempt Williamson County from a closed season of ten years in the taking of wild beaver, wild otter, or wild fox or the pelts thereof, and declaring an emergency."

The President laid the bill before the Senate, it was read second time and was passed to third reading.

#### House Bill No. 503 on Third Reading.

Senator Brownlee moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 503 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28.

Aikin	Hill
Beck	Holbrook
Brownlee	Isbell
Burns	Lemens
Collie	Moore
Cotten	Neal
Head	Nelson

Pace	Stone
Rawlings	Sulak
Redditt	Van Zandt
Roberts	Weinert
Shivers	Westerfeld
Small	Winfield
Spears	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

#### House Bill No. 648 on Second Reading.

On motion of Senator Collie and by unanimous consent, the regular order of business was suspended, to take up and have placed on its second reading and passage to third reading:

H. B. No. 648, A bill to be entitled "An Act granting permission to W. M. Rosseau to bring suit against the State of Texas, and/or Highway Department, in a court of competent jurisdiction, for damages for personal injuries received by him while on duty in the employ of the Highway Department of the State of Texas, and which injuries are alleged to have produced damages to the said W. M. Rosseau, providing that any judgment so recovered to be paid out of the funds of the Highway Department of the State of Texas; providing that if any provisions of this Act shall be invalid, the validity of the other provisions thereof shall not be affected, and declaring an emergency."

The President laid the bill before the Senate.

On motion of Senator Collie and by unanimous consent, Senate Rule No. 31a was suspended, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

#### House Bill No. 648 on Third Reading.

Senator Collie moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 648 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28.

Aikin	Beck
-------	------

Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Head	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Weinert
Neal	Westerfeld
Nelson	Winfield
Pace	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed.

#### House Bill No. 1148 on Second Reading.

On motion of Senator Brownlee and by unanimous consent, the regular order of business was suspended, to take up and have placed on its second reading and passage to third reading:

H. B. No. 1148, A bill to be entitled "An Act amending Acts of 1935, Forty-fourth Legislature, Special Laws, page 1210, Chapter 45, prohibiting transportation of minnows of any and all species outside of the counties wherein such minnows are caught, seined, or taken, by adding thereto the County of Williamson and Burnet, and declaring an emergency."

The President laid the bill before the Senate, it was read second time and was passed to third reading.

#### House Bill No. 1148 on Third Reading.

Senator Brownlee moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1148 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28.

Aikin	Brownlee
Beck	Burns

Collie	Redditt
Cotten	Roberts
Head	Shivers
Hill	Small
Holbrook	Spears
Isbell	Stone
Lemens	Sulak
Moore	Van Zandt
Neal	Weinert
Nelson	Westerfeld
Pace	Winfield
Rawlings	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

#### House Bill No. 1028 on Second Reading.

On motion of Senator Brownlee and by unanimous consent, the regular order of business was suspended, to take up and have placed on its second reading and passage to third reading:

H. B. No. 1028, A bill to be entitled "An Act prohibiting the taking of certain fish in the water of Travis County during the months of February, March and April; providing means, methods and devices for taking fish; providing size limits, bag limits and possession limits; permitting the use of seines and nets for certain species; prohibiting the sale,

or the taking for the purpose of selling, of any fish taken from the waters of Travis County; providing a penalty for violation of this Act; repealing all laws in conflict with this Act, and declaring an emergency."

The President laid the bill before the Senate, it was read second time and was passed to third reading.

#### House Bill No. 1028 on Third Reading.

Senator Brownlee moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1028 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28.

Alkin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28.

Alkin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused.

Davis	Oneal
Newton	

#### House Bill No. 462 on Second Reading.

On motion of Senator Head and by unanimous consent, the regular order of business was suspended, to take up and have placed on its second reading and passage to third reading:

H. B. No. 462, A bill to be entitled "An Act to amend Section 2, Article 923qa-6, Penal Code of Texas, by exempting Bosque County from the provisions of Section 2 thereof, and declaring an emergency."

The President laid the bill before the Senate and it was read second time.

Senator Head offered the following amendment to the bill:

Amend House Bill No. 462 by striking out everything below the enacting clause and inserting in lieu therefor the following:

"Section 1. It shall not be unlawful for any person to catch, trap, shoot, or kill any wild fox in Bosque County, Texas; provided, however, that if any person who takes, traps, shoots, or kills any wild fox as permitted by this section and who offers for sale such wild fox or the pelt or pelts thereof shall be deemed guilty of a misdemeanor.

"Sec. 2. It shall not be unlawful for any person to shoot, kill, or to set a steel trap, snare, or dead fall for the purpose of taking any fur bearing animal in Bosque County, Texas, nor shall it be unlawful to take, trap, or kill fox in said county under the conditions set out in Section 1 hereof.

"Sec. 3. Any person who violates the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten (\$10.00) Dollars and not more than One Hundred (\$100.00) Dollars, and each wild fox pelt sold in violation of this act shall constitute a separate offense.

"Sec. 4. The provisions of this law shall be cumulative of all general laws on the subject not in actual conflict herewith, and all laws and parts of laws in conflict herewith are repealed only insofar as such

laws are in actual conflict with the provisions of this Act in its local application, and in case of such conflict the provisions of this Act shall control and be effective.

"Sec. 5. The importance of this legislation and the fact that the citizens of Bosque County, Texas, desire the above noted change in their game law creates an emergency and an imperative public necessity that the Constitutional Rule requiring Bills to be read on three several days in each House be, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

The amendment was adopted.

The bill was passed to third reading.

#### House Bill No. 462 on Third Reading.

Senator Head moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 462 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—28.

Aikin	Pace
Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

#### Absent—Excused.

Davis	Oneal
Newton	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—28.

Aikin	Brownlee
Beck	Burns

Collie	Redditt
Cotten	Roberts
Head	Shivers
Hill	Small
Holbrook	Spears
Isbell	Stone
Lemens	Sulak
Moore	Van Zandt
Neal	Weinert
Nelson	Westerfeld
Pace	Winfield
Rawlings	Woodruff

#### Absent—Excused.

Davis	Oneal
Newton	

#### Adjournment.

On motion of Senator Pace, the Senate, at 9:00 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

#### APPENDIX.

##### Reports of Standing Committees.

##### Committee Room,

Austin, Texas, May 21, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Highways and Motor Traffic, to whom was referred

H. C. R. No. 97, Authorizing Creed M. Click, Jr., to sue the State, etc.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

RAWLINGS, Chairman.

##### Committee Room,

Austin, Texas, May 17, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

H. B. No. 1167, A bill to be entitled "An Act amending Article 2350, Revised Civil Statutes of Texas, 1925, as amended by Chapter 135, Acts of Thirty-ninth Legislature, Regular Session, as amended by Chapter 290, Acts of Fortieth Legislature, Regular Session, as amended by Chapter 46, Acts of Fortieth Legislature, First Called Session, as amended by Chapter 216, Acts of Forty-third Legislature, Regular Session, as amended

by Chapter 83, Acts of Forty-third Legislature, First Called Session, as amended by Chapter 363, Acts of Forty-fourth Legislature, Regular Session, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed, with Committee Amendment No. 1.

SPEARS, Chairman.

Committee Room,

Austin, Texas, May 20, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Privileges and Elections, to whom was referred

S. B. No. 26,

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and that it be mimeographed, as amended.

BECK, Chairman.

Committee Room,

Austin, Texas, May 21, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. C. R. No. 73 carefully examined and compared and find same correctly engrossed.

ROBERTS, Chairman.

Committee Room,

Austin, Texas, May 21, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 182 carefully examined and compared and find same correctly engrossed.

ROBERTS, Chairman.

Committee Room,

Austin, Texas, May 21, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 300 carefully examined and compared and find same correctly enrolled.

WESTERFELD, Chairman.

# EIGHTY-THIRD DAY.

(Saturday, May 22, 1937)

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by President Woodul.

The roll was called and the following Senators were present:

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Davis	Small
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

The following Senators were absent and excused:

Newton                      Spears

A quorum was announced present.

The invocation was offered by the Chaplain.

Reading of the Journal of the proceedings of yesterday was dispensed with, on motion of Senator Roberts.

## Leaves of Absence Granted.

Senators Spears and Newton were granted leaves of absence for today, on account of important business, on motion of Senator Oneal.

## Message From the House.

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, May 22, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the vote by which the House concurred in Senate amendments to House Bill No. 163 has been reconsidered. The House has refused to concur in Senate amendments to H. B. No. 163 and requests the Senate for the appointment of a conference committee to adjust the differences between the two Houses. The following are the conferees on the part of the House: Messrs. Worley, Hankamer, Alex-